



accountability and communication with management. The reverse of the claim form reported that appellant had taken sick leave and then was offered a change in duty location and supervisor, but declined the offer. Appellant submitted a January 15, 2014 report from Dr. Eric Santiago, an internist, indicating that appellant was being treated for “excessive stress” and recommended that he take sick leave. In a report dated February 27, 2014, Dr. Santiago reported that appellant was being treated for medical issues that stemmed from acute stress disorder related to the work environment. By letter dated March 10, 2015, OWCP requested that appellant submit additional factual and medical evidence to support his claim for compensation.

Appellant submitted additional evidence on March 31, 2015. Some of the evidence had been submitted in connection with an Equal Employment Opportunity (EEO) complaint for discrimination. In an undated statement, appellant asserted that he was often “out of the loop and the last to know” what was going on in his area. He reported that a supervisor told him that employees working in the holding/receiving area no longer worked for appellant and alleged that he was not properly instructed to return to work in October 2013 after the Federal Government shutdown. Appellant reported that he was told he signed a form and it was his responsibility to return to work. In a letter dated September 14, 2014, he wrote that he did not feel safe in his working environment as there were many items that could be used as a weapon. Appellant submitted an undated letter indicating that a supervisor, J.C., had asked him to listen to a tape of a racist radio station and had laughed at appellant.

By letter dated December 26, 2013, appellant wrote that he was “filing a grievance” due to “hostility in the work environment and hazing.” He asserted that there was no team work in the organization and he had been marginalized and undermined. The record indicates that appellant filed an EEO complaint for alleged discrimination as he was contacted by management while on sick leave. Appellant submitted a January 28, 2014 e-mail correspondence from J.C., who indicated that he was disappointed that appellant had filed a grievance as he had always been ready to do anything to make appellant feel appreciated. J.C. wrote that appellant’s feelings of individual persecution were wrong and he tried to give him as much autonomy as possible.

In a statement submitted with the EEO proceeding, appellant wrote that he felt like he was treated as an outsider. He indicated that in September 2013 he asked about a promotion or taking leadership courses, but was told it depended on funding. Appellant referred to returning to work on December 12, 2013 and having to process 98 percent of the paperwork without help. He asserted that from June to December 2013 “games were being played in my office,” such as disconnecting his computer and printer, placing a dead mouse in the trash can outside his office, and putting stapled paper in the printer. Appellant alleged that on January 16, 2014 J.C. contacted his wife and left her a voice mail.

In a report of investigation dated October 7, 2014, the investigator indicated that appellant had filed a complaint alleging discrimination based on disability against his supervisor, J.C. The investigator indicated that appellant had e-mailed J.C. on January 14, 2014 that he was going to be on “stress leave” beginning January 15, 2014. According to the report, J.C. had left a message with appellant’s wife that the medical documentation for the request period of leave was insufficient as it lacked detail. He indicated that he did not know it was appellant’s wife’s cell phone he had called, although he was aware that appellant had been diagnosed with post-traumatic stress disorder (PTSD). J.C. was also unaware that appellant had been having current

stress-related medical issues.<sup>2</sup> The report indicated that J.C. asserted that he always tried to help appellant, including trying to help him get promoted.

Appellant submitted e-mail correspondence dated October 20, 2014 from T.D., the employing establishment “operations management.” T.D. discussed a meeting between appellant and J.C. regarding the hiring of a new employee. According to T.D., appellant accused J.C. of lying and treating him unfairly, including raising his voice and accusing him of being a liar as he could give no examples of unfair treatment. He wrote that J.C. used an expletive in telling appellant to get out of his office.

The record contains a February 6, 2015 letter from the employing establishment indicating that appellant had applied for disability retirement. The employing establishment reported that requests for sick leave in January and February 2014 were approved, but a request for additional sick leave in April 2014 was not approved as the medical evidence did not support his continuing absence. According to it, in the fall of 2014, appellant was offered a change in duty location and supervisor, but he declined the offer.

With respect to medical evidence, appellant submitted additional reports from Dr. Santiago regarding treatment in 2014. In a report dated July 28, 2014, Dr. Santiago reported that appellant was requesting eight weeks of leave for complications related to stress at work. By report dated February 4, 2015, he indicated that appellant continued to have issues at work and would be ending employment.

In a March 12, 2015 report, Dr. Santiago reported that appellant was seen for severe stress “related to a reported hostile work environment. The main reported factors were difficulties with his supervisors who treated the patient unfairly and with malice.” Dr. Santiago wrote that appellant had been treated in April 2014 for panic attacks and has gastritis associated with anxiety. He diagnosed anxiety, depression, gastritis, and hypertension, which he opined were directly related to the “malignant work environment.”

On July 27, 2015 appellant submitted additional evidence, including e-mail correspondence from his supervisor, J.C. He did not note the relevance of this additional evidence to his claim for compensation. The e-mail correspondence included a coworker noting in a July 2, 2014 e-mail that the prior year he observed that appellant’s printer power cord was disconnected.

By decision dated August 20, 2015, OWCP denied appellant’s claim for compensation. It found the following compensable work factors: appellant was asked by his supervisor to listen to a segment from a radio station that appellant alleged was racist, appellant worked on a project regarding vehicle disposal with little help, and Supervisor J.C. used abusive language in an October 20, 2014 meeting. OWCP also indicated that unplugging the printer and putting stapled paper in the printer occurred as alleged, but the evidence did not establish a pattern of hazing or harassment. As to appellant’s other allegations, it found no other compensable work factors were established. OWCP determined the medical evidence of record insufficient to establish a diagnosed condition causally related to compensable work factors.

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<sup>2</sup> The record contains a July 22, 2014 affidavit from J.C. regarding the January 14, 2014 request for sick leave.

## LEGAL PRECEDENT

Appellant has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment.<sup>3</sup> This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>4</sup> A claimant must also submit rationalized medical opinion evidence establishing a causal relationship between the claimed condition and the established, compensable work factors.<sup>5</sup>

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his or her regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.<sup>6</sup>

A reaction to an administrative or personnel matter is generally not covered as it is not related to the performance of regular or specially assigned duties.<sup>7</sup> Nevertheless, if the evidence demonstrates that the employing establishment erred, acted abusively, or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.<sup>8</sup>

## ANALYSIS

In the present case, appellant filed a claim for compensation alleging that he sustained anxiety and depression, as well as gastritis and hypertension, as a result of his federal employment. The initial issue is the determination of the compensable work factors that have been alleged and substantiated by the evidence of record. Once compensable work factors have been established, then the medical evidence is reviewed to determine if there is a rationalized medical opinion establishing a diagnosed condition causally related to the compensable work factors.

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<sup>3</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>4</sup> *Roger Williams*, 52 ECAB 468 (2001); *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>5</sup> See *Bonnie Goodman*, 50 ECAB 139, 141 (1998).

<sup>6</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>7</sup> See *Brian H. Derrick*, 51 ECAB 417, 421 (2000).

<sup>8</sup> *Margreate Lublin*, 44 ECAB 945, 956 (1993).

Appellant has submitted a number of documents, including e-mail correspondence from a supervisor, J.C. Several of these documents have limited or no relevance to the claim for compensation. Appellant did file an EEO complaint alleging discrimination against J.C. regarding his request for sick leave submitted on January 14, 2014. Grievances and EEO complaints, by themselves, do not establish that workplace harassment or unfair treatment occurred.<sup>9</sup> There is no probative evidence establishing a compensable work factor with respect to the sick leave request. No findings of error or abuse by the employing establishment were submitted. J.C. indicated that appellant was asked to submit additional evidence because the medical evidence lacked sufficient detail. The January 15, 2014 report from Dr. Santiago was very brief and referred only to “excessive stress.” The record also indicated that the sick leave was subsequently approved. As to contacting appellant’s wife, J.C. explained that he called the telephone number that he was given and did not know it was appellant’s wife’s cell phone number. The Board finds no evidence of error or abuse regarding the request for sick leave on January 14, 2014.

In addition, appellant made general allegations that he was “out of the loop and the last to know” regarding decision making. He provided no probative evidence establishing a compensable work factor in this regard. Appellant’s frustration with what he perceived to be a lack of communication, or wanting a job with more responsibility, does not establish a compensable work factor.<sup>10</sup> He also made a reference to believing his life was in danger at work. Appellant does not provide any additional explanation or any probative evidence in this regard.

Appellant also alleged the employing establishment had failed to advise him of his need to return to work after the Federal Government shutdown in October 2013. There was no evidence of error or abuse by the employing establishment. Appellant acknowledged that he was required to listen to news reports regarding the ending of the shutdown and provided no evidence to support that the employing establishment was required to notify him personally that he must return to work.

There was an allegation that appellant was subject to “hazing” or “games” played by coworkers. No probative evidence was submitted to establish a compensable work factor due to the allegations. OWCP accepted that there was an incident where appellant’s printer was found to be unplugged, or stapled paper was in the printer. However, the witness statements of record do not support a finding that there was a pattern of hazing or intentional acts of harassment.

Appellant has also made general allegations regarding promotions or attending leadership classes. To the extent he is arguing there was administrative error or abuse in this regard, no probative evidence was submitted. Supervisor J.C. asserted that he attempted to help appellant with a promotion and attending classes, but these acts were dependent on budget issues.

OWCP did find that compensable work factors were established in this case. As to work performed, such as working on a vehicle disposal project, it is well established that the

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<sup>9</sup> See *Charles D. Edwards*, 55 ECAB 258 (2004).

<sup>10</sup> See *H.D.*, Docket No. 12-1246 (issued April 11, 2013).

performance of regular or specially assigned work duties are compensable work factors.<sup>11</sup> In addition, OWCP found there was an incident of verbal abuse on October 20, 2014. A witness reported that J.C. used expletives and yelled at appellant. There was also an incident where appellant was asked to listen to a radio station segment that he found offensive, and Supervisor J.C. laughed at him. OWCP accepted the incident occurred and was a compensable work factor.

Having established compensable work factors, the issue is whether the medical evidence of record is sufficient to establish a diagnosed condition causally related to the compensable work factors. In this case, the medical evidence does not establish a diagnosed condition causally related to a compensable work factor. Dr. Santiago made general references to work stress without providing a complete history that identified the compensable work factors. In his March 12, 2015 report, he referred to a hostile work environment and being treated with malice by a supervisor. The only accepted compensable work factors are those noted above. Dr. Santiago does not provide a rationalized medical opinion, based on a complete background, on causal relationship between a diagnosed condition and the compensable work factors.<sup>12</sup> It is appellant's burden of proof to establish the claim. For the above reasons, the Board finds appellant did not meet his burden of proof.

On appeal appellant writes that he disagrees with OWCP's decision, and that even with the evidence submitted, he is still at fault. The issue is not whether appellant was at fault. Appellant must submit probative evidence to establish the claim for compensation. OWCP did accept some compensable work factors, but the evidence of record is insufficient to establish additional compensable work factors. Moreover, the medical evidence of record was insufficient to establish a diagnosed condition causally related to compensable factors.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not established an emotional or physical condition causally related to compensable work factors.

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<sup>11</sup> *Supra* note 6.

<sup>12</sup> *See A.V.*, Docket no. 15-1394 (issued December 22, 2015) (rationalized medical evidence must be based on a complete background and explain causal relationship between diagnosed condition and specific compensable work factors).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated August 20, 2015 is affirmed.

Issued: August 16, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board