



## **FACTUAL HISTORY**

On July 15, 2015 appellant, then a 56-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that on July 13, 2015 she experienced mental stress from working in a hostile environment. She stopped work on July 14, 2015. Appellant's supervisor noted on the Form CA-1 that appellant was not injured in the performance of duty, rather, she filed the emotional condition claim after an argument with management over an administrative matter. She noted the employing establishment challenged whether the injury occurred in the performance of duty. The supervisor further noted that no medical evidence was submitted.

On July 31, 2015 OWCP requested that appellant submit additional evidence to include a detailed description of the work incidents that contributed to her claimed illness. It noted that no diagnosis of any condition resulting from an employment activity was provided and requested that appellant submit a physician's opinion as to how employment activities caused, contributed to, or aggravated her medical condition. OWCP asked appellant to substantiate the factual elements of her claim and respond to an attached questionnaire. It also requested that the employing establishment comment on appellant's statements and provide information about her work duties and possible sources of stress.

OWCP received an August 3, 2015 continuation of pay nurse report which noted that appellant's continuation of pay case was closed and appellant had not returned to work. The nurse indicated that appellant stopped work on July 14, 2015 after reporting a stress claim, but advised that no medical evidence had been received to support lost time. The nurse had been unable to reach appellant by telephone.

In a decision dated September 3, 2015, OWCP denied appellant's claim for an emotional condition as the evidence of record did not support that the events occurred as alleged. It advised that, while appellant alleged a hostile work environment that caused mental stress, she had provided no documentation to support her claim.

## **LEGAL PRECEDENT**

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 an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.<sup>3</sup> On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his or her frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>4</sup>

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<sup>3</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>4</sup> *Gregorio E. Conde*, 52 ECAB 410 (2001).

For harassment or discrimination to give rise to a compensable disability under FECA, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under FECA.<sup>5</sup>

A claimant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by employment factors.<sup>6</sup> This burden includes the submission of a detailed description of the employment factors or conditions which appellant believes caused or adversely affected a condition for which compensation is claimed and a rationalized medical opinion relating the claimed condition to compensable employment factors.<sup>7</sup>

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.<sup>8</sup> If a claimant does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, it must base its decision on an analysis of the medical evidence.<sup>9</sup>

### ANALYSIS

On July 15, 2015 appellant filed a traumatic injury claim alleging that she experienced mental stress on July 13, 2015 from working in a hostile environment. On July 31, 2015 OWCP asked appellant to substantiate the factual elements of her claim and respond to a development questionnaire. Appellant made no response to this request. OWCP denied her emotional condition claim finding that she had not submitted any supportive evidence to establish a factual basis for her claim.

The Board finds that appellant did not meet her burden of proof to adequately describe the work factors which she believed caused her to sustain an emotional condition. As noted above, appellant's burden includes the submission of a detailed description of the employment factors or conditions which she believed caused or adversely affected a condition for which compensation is claimed and a rationalized medical opinion relating the claimed condition to

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<sup>5</sup> *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

<sup>6</sup> *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

<sup>7</sup> *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

<sup>8</sup> *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

<sup>9</sup> *Id.*

compensable employment factors.<sup>10</sup> She generally alleged stress from a hostile environment, but did not provide any further detail about the specific incident, such as when it occurred, where it occurred, how it occurred, the individuals involved, and the statements or actions that took place during the incident. Appellant did not provide any factual evidence in support of her generalized assertion. She was provided an opportunity to provide additional detail regarding her claimed work factors, but she failed to do so. Appellant's supervisor stated that appellant filed the claim after an argument over an administrative matter which is a function of the employing establishment and generally not covered under FECA.<sup>11</sup>

For the foregoing reasons, appellant has not established any compensable employment factors under FECA and, therefore, has not met her burden of proof to establish an emotional condition in the performance of duty.<sup>12</sup>

On appeal appellant indicated that she wished to have an opportunity to delineate the work factors which she believed caused her emotional condition. She 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 failed to establish an emotional condition in the performance of duty.

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<sup>10</sup> *Supra* note 7.

<sup>11</sup> *See Charles D. Edwards*, 55 ECAB 258 (2004) (administrative and personnel matters, although generally related to the employee's employment, are functions of the employing establishment rather than the regular or specially assigned work duties of the employee and are generally not covered under FECA).

<sup>12</sup> As appellant has not established any compensable employment factors, the Board need not consider whether medical evidence establishes that an employment factor contributed to an emotional condition. *See Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 3, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 11, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board