

**United States Department of Labor
Employees' Compensation Appeals Board**

N.D., Appellant)

and)

OFFICE OF SPECIAL COUNSEL,)
HEADQUARTERS, Washington, DC, Employer)

Docket No. 16-0823
Issued: August 18, 2017

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On March 15, 2016 appellant filed a timely appeal from a September 22, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish a stress-related condition in the performance of duty.

¹ Appellant also timely requested oral argument before the Board. However, by letter dated August 18, 2016, appellant advised the Clerk of the Appellate Boards that she was withdrawing her request for oral argument.

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances of the case as set forth in the Board's prior decision and order are incorporated herein by reference. The relevant facts of the prior appeal are included below.

On February 8, 2006 appellant, then a 35-year-old paralegal specialist, filed an occupational disease claim (Form CA-2) alleging that she sustained acute stress due to exposure to various incidents and conditions at work over a period of time. The claim was assigned OWCP File No. xxxxxx775. Appellant indicated that she first became aware of her claimed condition on approximately December 29, 2005 and first realized on January 27, 2006 that it was caused or aggravated by her employment. She stopped work on January 23, 2006 and returned to her regular work on January 25, 2006. On the same form, appellant's immediate supervisor indicated that appellant first reported her claimed work-related occupational disease to him on January 27, 2006.

In an attached statement, appellant asserted that her immediate supervisor threatened to fire her, reneged on employment agreements, slandered her professional and personal reputation, and subjected her to acts of harassment, intentional infliction of emotional distress, mental abuse, disparate treatment, and discrimination. She indicated that her immediate supervisor instructed her to change her seating arrangements at least five times in a two-month period, thereby subjecting her to working in an office that made her sick and another office that was unsafe. Appellant advised that she sought medical treatment after experiencing sleepless nights, uncontrollable crying, loss of appetite, and migraine headaches.

Appellant submitted various documents from early 2006, including time and attendance records and e-mails she had exchanged with her immediate supervisor regarding use of leave, approval of a flexible work schedule, and application for a job promotion. She also submitted several medical reports.⁴

In a February 7, 2006 statement, appellant's immediate supervisor indicated that appellant had never worked as a fully functioning paralegal before being hired in July 2005 as a paralegal specialist at the GS-9 level with eligibility to be promoted to the GS-11 level. He noted that he advised appellant that she could be promoted based on satisfactory performance and time in grade (at least 52 weeks), but that such promotion was subject to supervisory discretion and that no promise was made for automatic promotion after a certain amount of time. The supervisor indicated that appellant approached him in September 2005 about possible promotion, but that he did not feel she had been in the job long enough to be adequately evaluated for promotion. He noted that he accommodated appellant's request to be moved to another office because of her claim that a smell was making her nauseated. The supervisor indicated that he had an employee check on appellant's complaint about unsafely stacked

³ Docket No. 10-1655 (issued May 25, 2011).

⁴ In an April 18, 2016 letter, OWCP requested that appellant submit additional factual and medical evidence in support of her claim. Appellant submitted additional medical records and documents of an administrative nature after receiving the April 18, 2016 letter.

furniture near her office but that the employee did not find any unsafe conditions. He noted that he gave appellant a letter of counseling on September 30, 2005 because she circumvented the chain of command by directly e-mailing the head of the agency with complaints after being instructed to first direct such complaints to lower-level managers. The supervisor indicated that he had advised appellant that her position required a fixed-hour schedule with a requirement to handle telephone calls from 8:30 a.m. to 5:00 p.m. with no possibility of a flexible work schedule.⁵ He asserted that he had not engaged in any harassing or discriminatory actions towards appellant.

On February 8, 2006 appellant also filed a traumatic injury claim (Form CA-1) alleging that she sustained a stress-related condition at work. The claim was developed under File No. xxxxxx775. Appellant had not identified any date of injury on the Form CA-1 that she had completed on February 8, 2006, but she later asserted that on March 9, 2006 a coworker called security on her for an unsubstantiated claim, an action which she believed constituted retaliation for her complaints about her supervisor's managerial practices and ethics.⁶

In a February 9, 2006 statement, appellant's immediate supervisor indicated that appellant moved several times during the first few months of her employment, but that such moves were necessitated by the addition of new employees and the need for some employees to be closer to their managers. He again noted that one of the moves was due to appellant's request to be relocated away from a smell in her office. The supervisor indicated that appellant was not required to work in unsafe surroundings and that he responded to all of her requests for furniture and equipment. He again advised that no promise was made that appellant would be promoted to the GS-11 level after working any specific period of time. The supervisor noted that appellant was told that the agency had specific contacts at the National Finance Center (NFC) who they correspond with regarding pay-related issues and that appellant did not follow the proper channels when contacting the NFC. He denied that she was subjected to harassment, discrimination, or retaliatory actions.⁷

In an undated statement received on March 21, 2006, appellant disagreed with the substance of the February 9, 2006 statement of her immediate supervisor. She denied that she circumvented the instructions of management and asserted that the supervisor denied her request to replace a desk that was in poor condition.

⁵ The supervisor noted that appellant's request for reasonable accommodation to include a flexible work schedule was denied because the medical documentation did not support the need for such an accommodation.

⁶ Appellant indicated that she was withdrawing her February 8, 2006 occupational disease claim, but she continued to implicate claimed work factors occurring over more than one day or work shift as causing her stress-related medical condition. She later noted that she did not wish to withdraw the claim. A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q), (ee); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

⁷ The Board notes that it appears that appellant filed grievances and EEO claims beginning in late 2005 and that, in part, appellant's immediate supervisor was responding in his February 2006 statements to assertions appellant made in those grievances and claims. Appellant later submitted a limited number of documents referencing these grievances and claims.

On April 21, 2006 appellant filed a Form CA-1 alleging that on March 9, 2006 she sustained a work-related traumatic injury in the form of intentional infliction of emotional distress. The claim was given File No. xxxxxx252. In an attached statement, appellant indicated that on March 9, 2006 a coworker called security on her with a “fabricated claim” and that the ensuing investigation revealed that the employee’s claim was unfounded and unsubstantiated. She also asserted that on March 20, 2006 her immediate supervisor pursued her in the hall at work in a manner “that came off to me as sexually violating.” Appellant claimed that her immediate supervisor refused to accommodate her working conditions as a means of retaliating against her for filing complaints against his managerial practices and work ethics.

On April 21, 2006 appellant filed a Form CA-2 alleging that she sustained acute stress and intentional infliction of emotional distress due to exposure to various incidents and conditions at work over time. The claim was given File No. xxxxxx253. She indicated that she first became aware of her claimed condition on March 9, 2006 and first realized on March 28, 2006 that it was caused or aggravated by her employment.

In July 25 and August 23, 2006 statements, appellant again asserted that she was unfairly accused of threatening a coworker on March 9, 2006. In an October 20, 2006 statement, appellant alleged that her immediate supervisor harassed her on March 20, 2006 by “following her down the hall using inappropriate body gestures and acting obsessed with her.” She also claimed that management unfairly denied her requests for reasonable accommodation in mid-2006.

On May 27, 2008 an official with the Legal Counsel and Policy Division of the employing establishment indicated that in March 2006 a security manager appropriately investigated a potentially threatening comment made by appellant at work.

In March 2009 appellant requested and received copies of the documents contained in claim File Nos. xxxxxx775, xxxxxx252, and xxxxxx253.

In statements dated April 16 and June 2, 2009, appellant further described the incidents and conditions at work which she believed caused her to develop a stress-related condition. She claimed that she was unfairly denied a career ladder promotion to the GS-11 level in September 2005. Appellant indicated that her immediate supervisor preferred another employee and promoted that employee to the GS-11 level. She claimed that her immediate supervisor reversed the flexible worktime arrangement that she was originally given. Appellant noted that she was improperly given a letter of counseling on September 30, 2005 as a result of contacting the head of her agency about a matter. She indicated that she was improperly moved five times during the first two months of her employment. Appellant claimed that she was placed in an office that had furniture unsafely piled six feet outside the door. She alleged that her immediate supervisor threatened to fire her after she made disclosures to upper management concerning his actions towards her and that he had slandered her professional and personal reputation. Appellant asserted that her immediate supervisor had refused to reassign her after she reported she was in a hostile working environment. She claimed that her supervisor sexually harassed her on March 20, 2006 when she turned in her sign-in sheet and she generally alleged that she suffered sexual harassment at work. Appellant asserted that, as reported in a police report, she was subjected to harassment when she received a threatening letter from an EEO attorney which

indicated that, if she did not drop her complaints, she was “going to regret it.” She alleged that she was verbally reprimanded without justification for calling the NFC about the fact that her pay was not received in a timely manner. Appellant claimed that in late 2006 she unfairly received a letter of proposed removal for being on absent without leave (AWOL) status.

Appellant submitted additional administrative documents and e-mails regarding such matters as the claimed March 9, 2006 incident, leave usage, promotion opportunities, disciplinary actions, and her requests for reasonable accommodation. In an “Offense/Incident Report” dated March 10, 2006, an unidentified person indicated that a report had been filed regarding “a threatening statement within the office” made by a person (identified only as “Rp2”). It was reported that, upon investigation, the person who was alleged to have made the claimed threatening statement did not recall “making any threatening or derogatory statements toward anyone within her office.”⁸ In a June 26, 2006 e-mail to several coworkers, appellant indicated that the officer who investigated the “alleged threat” told her that nothing about “gun usage” was reported in the initial investigation.

Appellant also submitted several medical reports from 2006 containing a diagnosis of adjustment disorder with mixed anxiety and depressed mood. She submitted documents referencing grievances and EEO complaints she had filed in connection with various matters, including the claimed March 9, 2006 incident and her failure to be promoted.⁹

In a May 5, 2006 statement, the director of the Management and Budget Division of the employing establishment indicated that on September 30, 2005 appellant was properly given a letter of counseling for circumventing his instructions about directly contacting the head of the agency. He denied that appellant was told that she would be fired. The director noted that, on March 9, 2006, a coworker of appellant reported to a security officer at the employing establishment that appellant had made a “possible threatening statement in the office.” The director noted that security officers conducted an on-site investigation and closed the matter without further action. He noted that appellant’s immediate supervisor reported that appellant turned and walked away from him during a discussion on March 20, 2006 in a manner which he felt was unprofessional. The director indicated that he was unaware of any substantiation of appellant’s claims of harassment and retaliation.

In a May 4, 2009 decision, issued in connection with case File No. xxxxxx252, OWCP denied appellant’s claim that she sustained a stress-related condition in the performance of duty.

⁸ The record also contains a June 27, 2006 “Offense/Incident Report” in which a security officer with an illegible signature indicated that appellant was involved in an incident on March 9, 2006 for which security was called. However, the report does not contain any further details of the incident. In a June 26, 2006 “Offense/Incident Report,” an unidentified person indicated that “Rp2” claimed that she received a letter from the “EEO Counsel office” indicating that if she did not drop her complaints, she was “going to regret it.” The record does not contain a letter from an EEO employee containing such language.

⁹ The EEO documents include a summary statement indicating that a coworker of appellant’s reported to the director of the Management and Budget Division of the employing establishment that appellant made a statement in early 2006 that it would not be surprising if somebody came into the office and shot the place up. The coworker noted that appellant made a machine gun sound while making this statement. It is unclear who produced the summary statement.

It found that appellant did not establish any compensable work factors because she failed to demonstrate that she was subjected to harassment, discrimination, or error/abuse with respect to administrative matters. Although the May 4, 2009 decision was issued in connection with a claim for a March 9, 2006 traumatic injury due to work factors (File No. xxxxxx252), OWCP effectively considered and denied appellant's claim for a work-related occupational disease.¹⁰

Appellant requested a hearing with an OWCP hearing representative and during a September 15, 2009 hearing she further described her claimed work factors.¹¹ In a December 17, 2009 decision, OWCP's hearing representative affirmed OWCP's May 4, 2009 decision with respect to the finding that appellant failed to establish a stress-related occupational disease in the performance of duty. However, the hearing representative also found that OWCP's May 4, 2009 decision had not adequately considered appellant's claim that she sustained a stress-related traumatic injury in the performance of duty on March 9, 2006 and he remanded the case to OWCP to render an appropriate decision on this matter. OWCP's hearing representative directed OWCP to combine the case files of record (File Nos. xxxxxx775, xxxxxx252, and xxxxxx253).

In a March 31, 2010 decision, issued in connection with case File No. xxxxxx252, OWCP denied appellant's claim that she sustained a stress-related traumatic injury in the performance of duty on March 9, 2006. It found that appellant had not established a compensable work factor in her claim for injury on March 9, 2006.

Appellant appealed her case to the Board. In an order remanding case dated May 25, 2011, the Board set aside OWCP's March 31, 2010 decision and remanded the case to OWCP in order to combine case File Nos. xxxxxx775, xxxxxx252, and xxxxxx253.¹² It found that, for a full and fair adjudication in accordance with OWCP procedures, all of the case files pertaining to appellant's claim for a stress-related condition due to work factors, whether traumatic or occupational in nature, needed to be combined. The Board directed that, after this combining of case files, OWCP should issue an appropriate merit decision on appellant's claim for a stress-related condition due to work factors.

OWCP combined the claim files on remand as directed. By decision dated September 22, 2015, OWCP denied appellant's claim for a stress-related condition due to incidents and conditions at work. It determined that appellant had not established any compensable employment factors and denied her claim for a stress-related condition.

LEGAL PRECEDENT

To establish an emotional condition causally related to factors of her federal employment, the claimant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized

¹⁰ It is unclear from the record why there was a delay in issuing the May 4, 2009 decision.

¹¹ In a November 23, 2009 memorandum, the employing establishment denied appellant's claims that she had been subjected to harassment, discrimination, or error/abuse in administrative matters.

¹² See *supra* note 3.

medical opinion evidence establishing that her emotional condition is causally related to the identified compensable employment factors.¹³

Workers' compensation law does not apply to each and every injury or illness that is somehow related to one's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.¹⁴ However, disability is not compensable when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.¹⁵

To the extent that incidents alleged as constituting harassment or a hostile work environment are established as occurring and arising from appellant's performance of her regular duties, these could constitute employment factors.¹⁶ For harassment to give rise to a compensable disability under FECA there must be evidence that harassment did in fact occur.¹⁷ Allegations of harassment must be substantiated by reliable and probative evidence.¹⁸ Mere perceptions of harassment are not compensable.¹⁹

An employee's emotional reaction to administrative or personnel matters generally falls outside FECA's scope.²⁰ Although related to the employment, administrative and personnel matters are functions of the employer rather than the regular or specially assigned duties of the employee.²¹ However, to the extent the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.²²

Verbal altercations and difficult relationships with coworkers and supervisors/managers, when sufficiently detailed and supported by the record, may constitute compensable factors of

¹³ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

¹⁴ *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

¹⁵ *Lillian Cutler*, *id.*

¹⁶ *P.T.*, Docket No. 14-2011 (issued February 5, 2015); *see also David W. Shirey*, 42 ECAB 783, 795-96 (1991); *supra* note 13.

¹⁷ *Donna J. DiBernardo*, 47 ECAB 700, 703 (1996).

¹⁸ *Joel Parker Sr.*, 43 ECAB 220, 225 (1991).

¹⁹ *Supra* note 17.

²⁰ *Andrew J. Sheppard*, 53 ECAB 170, 171 (2001); *Matilda R. Wyatt*, 52 ECAB 421, 423 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

²¹ *David C. Lindsey, Jr.*, 56 ECAB 263, 268 (2005).

²² *Id.*

employment.²³ However, this does not imply that every ostensibly abusive or threatening statement uttered in the workplace will give rise to coverage under FECA.²⁴ For appellant to prevail on her claim, she must support her allegations with probative and reliable evidence.²⁵

Assigning work and monitoring performance are administrative functions of a supervisor.²⁶ The manner in which a supervisor exercises his/her discretion falls outside FECA's coverage. This principle recognizes that supervisors must be allowed to perform their duties, and at times employees will disagree with their supervisor's actions. Mere dislike or disagreement with certain supervisory actions will not be compensable absent error or abuse on the part of the supervisor.²⁷

Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting her allegations with probative and reliable evidence.²⁸ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter, OWCP must base its decision on an analysis of the medical evidence.²⁹

ANALYSIS

Appellant filed multiple claims (File Nos. xxxxxx775, xxxxxx252, and xxxxxx253), both for a traumatic injury and an occupational disease, alleging that she sustained a stress-related or emotional condition as a result of a series of employment incidents and conditions. OWCP initially denied appellant's claim because she had not established any compensable employment factors. In an order remanding case dated May 25, 2011, the Board set aside OWCP's prior denial decision and remanded the case to OWCP in order to combine her multiple claims. OWCP combined the claim files on remand and issued a September 22, 2015 decision denying appellant's claim for a stress-related condition due to work because she did not establish any compensable employment factors.

The Board must initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA. The Board notes that appellant's allegations do not pertain to her regular or specially assigned duties under *Cutler*.³⁰

²³ *Marguerite J. Toland*, 52 ECAB 294, 298 (2001).

²⁴ *Fred Faber*, 52 ECAB 107, 109 (2000).

²⁵ *See supra* note 13.

²⁶ *Donney T. Drennon-Gala*, 56 ECAB 469, 475 (2005); *Beverly R. Jones*, 55 ECAB 411, 416 (2004); *Charles D. Edwards*, 55 ECAB 258, 270 (2004).

²⁷ *Linda J. Edwards-Delgado*, 55 ECAB 401, 405 (2004).

²⁸ *Supra* note 13.

²⁹ *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992). Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

³⁰ *See Lillian Cutler*, *supra* note 14.

Rather, she has alleged error and abuse in administrative matters and harassment and discrimination on the part of her immediate supervisor.

Appellant alleged that the employing establishment committed wrongdoing by improperly denying her a promotion, unfairly subjecting her to disciplinary actions, unreasonably denying her work accommodation requests, moving her work location without justification, and improperly carrying out an investigation into a claim that she made a threat at work. Such administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.³¹ However, the Board has held that, where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.³²

Appellant alleged that on March 9, 2006 a security manager for the employing establishment improperly launched an investigation regarding a statement she made which was improperly interpreted as a threat. However, appellant has not provided any evidence that the employing establishment committed any error or abuse in the administrative function of carrying out this investigation. An official with the Legal Counsel and Policy Division of the employing establishment, the director of the Management and Budget Division of the employing establishment, and appellant's immediate supervisor submitted statements indicating that, while the investigation did not lead to action being taken against appellant, the investigation was initiated in response to a legitimate concern and was carried out in an appropriate manner. The record contains a March 10, 2006 document concerning the investigation, but the information recorded in this document does not show any wrongdoing by the employing establishment. There is no final finding of a grievance or EEO complaint in the record showing that management committed error or abuse in investigating this matter.³³

Appellant claimed that she was improperly denied a career ladder promotion to the GS-11 level in September 2005. Appellant's immediate supervisor explained that appellant started working as a GS-9 level paralegal specialist with promotion potential to the GS-11 level. He advised that there was no promise made that she would immediately be promoted to a GS-11 after any specific period and that such a decision was within the discretion of the supervisor. The supervisor felt that appellant had not worked long enough for the employing establishment to be promoted at the time she requested such a promotion. The Board notes that appellant has not shown error or abuse by the employing establishment in the administrative function of handling promotion decisions. Appellant asserted that she was improperly given a letter of counseling on September 30, 2005 as a result of contacting the head of her agency about a matter. Appellant's immediate supervisor noted that correspondence was not supposed to be sent to the head of the agency. The supervisor indicated that, per the agency's policies, the contact was inappropriate as it potentially circumvented the authority of the first-level supervisor.

³¹ See *supra* notes 20 and 21.

³² *Supra* note 21.

³³ The mere fact that appellant filed an EEO complaint and a grievance does not establish that she was subjected to workplace harassment or that unfair treatment occurred. *Charles D. Edwards, supra* note 26.

Appellant indicated that she was verbally reprimanded without justification for calling the NFC about the fact that her pay was not received in a timely manner. However, appellant's immediate supervisor noted that appellant was told that the agency had specific contacts at the NFC who they correspond with regarding pay-related issues and that appellant did not follow the proper channels. Appellant has not shown error or abuse in the administrative function of handling disciplinary actions.³⁴

Appellant claimed that her immediate supervisor reversed the flexible worktime arrangement that she was originally given. However, appellant's immediate supervisor noted that, when appellant's position was originally offered, she was informed that the hours of the fixed-hour position were 8:30 a.m. to 5:00 p.m. Appellant's request for reasonable accommodation to include a flexible work schedule was denied because the medical documentation did not support the need for such an accommodation. There is no indication in the case record that this determination was erroneous. Appellant asserted that she was improperly moved five times during the first two months of her employment. Appellant's immediate supervisor explained that the moves were due to appellant's request to be moved away from a smell and due to the demands of the work mission. Appellant claimed that she was placed in an office that had furniture unsafely piled six feet outside the door and that her immediate supervisor refused her request to have a more suitable desk. However, appellant's immediate supervisor indicated that he properly responded to all of appellant's requests regarding furniture, equipment, and office conditions. He denied that the furniture was piled six feet high or otherwise posed a safety hazard and she failed to submit any evidence in support of this allegation. Appellant did not submit evidence showing that the employing establishment committed error or abuse with respect to these administrative decisions.

Thus, appellant has not established a compensable employment factor under FECA with respect to her claims that management committed error or abuse with respect to administrative matters.

Appellant claimed that she was subjected to harassment and discrimination by her immediate supervisor. The employing establishment denied that appellant was subjected to harassment or discrimination and appellant has not submitted sufficient evidence to establish that she was harassed or discriminated against by her supervisor. Appellant alleged that the supervisor made statements and engaged in actions which she believed constituted harassment and discrimination, but she provided no corroborating evidence, such as witness statements, to establish that the statements actually were made or that the actions actually occurred.³⁵

Appellant alleged her immediate supervisor threatened to fire her after she made disclosures to upper management concerning his actions towards her and that he slandered her professional and personal reputation. She alleged that her immediate supervisor refused to reassign her after she reported she was in a hostile working environment. Appellant claimed that she was subjected to sexual harassment on March 20, 2006 when she turned in her sign-in sheet

³⁴ Appellant also claimed that in late 2006 she unfairly received a letter of proposed removal for being on AWOL status. She did not submit evidence showing that this administrative action was improper.

³⁵ See *William P. George*, 43 ECAB 1159, 1167 (1992).

to her immediate supervisor. She asserted that she was subjected to harassment when she received a threatening letter from an EEO attorney which indicated that, if she did not drop her complaints, she was “going to regret it.” Appellant generally alleged that she suffered sexual harassment and that management retaliated against her for filing grievances and EEO complaints.

Appellant did not provide any detailed description of these claimed incidents of harassment and discrimination nor did she submit objective evidence that the incidents actually occurred. With respect to appellant’s claim of receiving a harassing letter from an EEO attorney, the Board notes that there is no evidence in the case record showing that appellant received such a letter and a security officer report in the record dated June 26, 2006 does not indicate that she showed the alleged letter to the officer who took the report. Appellant filed grievances and EEO complaints with respect to some of these claims, but the record does not contain a final finding of a grievance or EEO complaint showing that her immediate supervisor committed harassment or discrimination as alleged.³⁶

Thus, appellant has not established a compensable employment factor under FECA with respect to the claimed harassment and discrimination.

For the foregoing reasons, appellant has not established any compensable employment factors under FECA and, therefore, has not met her burden of proof in establishing that she sustained a stress-related condition in the performance of duty.³⁷

On appeal, appellant argues that the employing establishment subjected her to harassment, discrimination, and error/abuse in administrative matters that caused her to develop stress-related conditions. However, for the reasons explained above, appellant did not submit sufficient evidence to support these claims.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a stress-related condition in the performance of duty.

³⁶ See *supra* note 33.

³⁷ As appellant has not established any compensable employment factors, the Board need not consider the medical evidence of record. See *Garry M. Carlo*, *supra* note 29; *Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

ORDER

IT IS HEREBY ORDERED THAT the September 22, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 18, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board