United States Department of Labor
Employees' Compensation Appeals Board

K.T., Appellant	)	
and	)	**Docket No. 16-0105**
	)	**Issued: January 26, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Redlands, CA, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On October 23, 2015 appellant, through counsel, filed a timely appeal from a July 28, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof to establish an emotional condition in the performance of duty.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On November 4, 2013 appellant, then a 51-year-old city letter carrier, filed an occupational disease claim (Form CA-2) alleging that she had a nervous breakdown due to harassment by her supervisor, R.L. over an 18-month period. She asserted that R.L. had followed her in her personal vehicle while she was off work due to a previous work-related injury. Appellant stopped work on October 25, 2013.

Appellant submitted an August 23, 2013 witness statement from B.V., a coworker, who noted that on August 21, 2013 she saw J.S., a customer service supervisor, and R.L., driving a postal van that was pursuing a vehicle driven by appellant. B.V. recognized appellant's car because of its special license plate and window sticker. She noted appellant's car approached a four-way stop and turned right and the postal van was right behind her.

Appellant also submitted a note she had written to P.W., the postmaster, dated October 25, 2013, requesting paid administrative leave because she was unable to perform her duties due to stress, anxiety and physical issues induced by her job. In a November 4, 2013 letter, P.W. acknowledged appellant's October 25, 2013 letter and advised appellant to submit an occupational disease claim Form CA-2 which he provided to appellant. He noted sending appellant a Family Medical Leave Act (FMLA) packet and advised that she must respond to the FMLA coordinator in a timely manner and submit the required documents. P.W. noted that, if the claim was accepted, instructions would be provided as to how to proceed. He stated that he could not authorize paid administrative leave at that time.

Appellant submitted a note from Dr. Labib Wessam, a Board-certified family practitioner, dated August 21, 2013, who treated appellant for a work-related injury and advised that she could return to work on August 24, 2013. She also submitted a note from Dr. Melissa Pereau, a Board-certified psychiatrist, dated November 1, 2013, who noted that appellant was authorized to be off work from October 23 to December 30, 2013.

On November 14, 2013 OWCP asked appellant to submit additional evidence that included a detailed description of the employment incidents that contributed to her claimed illness. It requested that the employing establishment provide comments from a knowledgeable supervisor on the accuracy of all statements.

Appellant submitted an Equal Employment Opportunity (EEO) complaint dated March 24, 2012 alleging discrimination based on age, sex, physical, and medical limitations, race, and retaliation for filing an EEO complaint. She alleged that on March 13, 2012 R.L. reviewed the piece count on his clipboard and her request for an extra hour for her route and he got angry with appellant. Appellant indicated that when she completed her route and returned to the office her mail route start time and two other carrier route's start times were changed to 8:30 a.m. The rest of the mail routes were unchanged. Appellant believed that management had retaliated against her by pushing her start time to 8:30 a.m. to keep her on the street for a full eight hours with no office time. She believed she was being punished due to her medical restrictions and "overburdened" mail route. Appellant further alleged mental abuse and bullying by R.L. which left her in a constant state of anxiety and stress. She submitted a grievance dispute resolution settlement dated May 31, 2013 in which the parties agreed that the employing

establishment would abide by section 115.4 of the employing establishment handbook and cease and desist from any future violation of the mutual respect guidelines.

A December 7, 2012 witness statement from C.T., a union representative, noted that he witnessed R.L. harass appellant on a number of occasions. He claimed that he had filed a number of grievances on appellant's behalf.

In a December 1, 2013 statement, D.T., a coworker, noted that R.L. was hired two years prior, had an aggressive and intimidating style of managing, and created a hostile work environment. He indicated that R.L. harassed and bullied appellant on a daily basis. D.T. noted that R.L. advised appellant that she should carry her route much faster than the actual route time. He noted one day when mail volume was high appellant asked for overtime approval and R.L. told her to carry it all in eight hours or she would be fired. D.T. noted that appellant had informed the postmaster, P.W., of the verbal abuse but nothing was done to rectify the situation.

Appellant submitted a statement from M.N., a city carrier, dated December 1, 2013, who noted that in August 2013 he overheard R.L. joke with another letter carrier that he had chased appellant in a postal vehicle when she was off duty and in her private vehicle.

Appellant submitted additional medical evidence that included hospital admission records from October 25 to 29, 2013, with diagnoses that included major depressive disorder, severe and recurrent with psychotic features, alcohol and Ativan use disorder, and behavior considerably influenced by delusions, serious impairment in judgement or inability to function. She submitted reports from Dr. Gina J. Mohr, a Board-certified family practitioner, dated November 22, 2013 and February 14, 2014, who diagnosed shoulder pain and major depressive disorder. Dr. Mohr opined that appellant was totally disabled due, in part, to severe depression exacerbated by workplace stress.

The employing establishment submitted a February 4, 2014 letter from a postmaster, E.G., to appellant denying appellant's request for light duty. E.G. indicated that the medical evidence submitted by appellant had conflicting information as to the period of disability and the reasons for the disability. She indicated that appellant was issued a notice of removal from the employing establishment on January 21, 2014 with an effective date of March 1, 2014. E.G. indicated that management would keep appellant in pay status during the 30-day notice period.

On January 2, 2014 the employing establishment submitted an investigation report from the U.S. Postal Service, Office of Inspector General (OIG), for the period October 25, 2013 to January 2, 2014. On October 25, 2013 the OlG received information from an employing establishment manager regarding appellant possibly filing a false workers' compensation claim. The complaint noted that on October 19, 2013 appellant went to work but was later taken home by a supervisor after determining that she was intoxicated from drinking alcohol while delivering mail. Appellant later called the manager stating that she wanted to file a stress claim because the employing establishment had caused her anxiety and alcohol consumption.

The OIG investigation revealed that appellant's emotional condition claim effective October 25, 2013, directly coincided with the personal issue of her drinking while on duty on October 19, 2013. Appellant did not provide the agent with any specific instances of

unprofessional interaction with her supervisor while she had referenced on the Form CA-2. The agent noted that appellant's general statements regarding unprofessional interaction with her supervisor had been addressed by the postmaster, P.W., who indicated that the employing establishment conducts carrier observations for all carriers and that it was a normal business practice adhered to throughout the employing establishment.

The OIG agent interviewed P.W. who indicated that on October 19, 2013 appellant came in to work as usual and later returned to the employing establishment intoxicated and reported delivering only half her mail route. P.W. noted speaking to C.T., a supervisor, who indicated that appellant admitted that she had been drinking alcohol while delivering mail on her route. C.T. indicated that he took appellant home because she was intoxicated and could not drive. P.W. indicated that on October 18, 2013 appellant had spoken to J.S., a customer service supervisor, and reported that she had fallen off her bicycle while off duty and injured her shoulder and legs. He noted that appellant had a previously accepted right shoulder condition from an on-the-job repetitive motion injury, claim number xxxxxx950 with a date of injury of December 14, 2011.

On October 21, 2013 P.W. stated that appellant contacted the employing establishment stating that she reinjured her shoulder at work. On October 23, 2013 appellant called P.W. and requested to be placed on paid administrative leave and apologized for drinking alcohol on the job on October 19, 2013. She claimed to P.W. that R.L. singled her out and J.S. had favorite employees. She was slurring her words and told P.W. that she was consuming alcohol to relieve pain from her bicycle fall. P.W. suspected that appellant was stealing mail and was attempting to steal pain medication from mail parcels. He indicated that a dispatch clerk contacted him after two packages which contained medication were found in the undeliverable bulk business mail section. P.W. stated that the packages were easily identifiable as medication and he believed that appellant placed the package of medication in the undeliverable bulk business mail section to be retrieved later. He stated that he issued appellant a seven-day suspension on September 12, 2013.

In a December 6, 2013 follow-up OIG interview, P.W. reported that there had been no unprofessional interaction between R.L. and appellant. He indicated that he tasked R.L. with conducting carrier street observations on all carriers in order to determine if carriers were using too much time on their route. P.W. indicated that R.L. was doing his job by conducting street observations with all the carriers. He indicated that appellant was taking a significant amount of time on her route and was having issues completing her route in the required time. Appellant would argue that her route took 8 hours and 49 minutes each day. P.W. reported advising appellant that on different days with less mail, her route would take less time to complete, but appellant asserted that her route took her 8 hours and 49 minutes each day regardless of the quantity of mail.

The agent interviewed Supervisor J.S. on December 4, 2013. She reported that on October 18, 2013 appellant requested a change in her route from a normal walking route to a driving route. Appellant reported that she had fallen off her bicycle, bruised her legs, and reinjured her right shoulder. Supervisor J.S. informed appellant that if she had injured her shoulder while riding her bicycle off-duty it was not a work injury and not covered by FMLA. She stated that she accommodated appellant's request and traded routes with another carrier, but

the union steward, C.T., informed her that she did not have to accommodate appellant's request because it was not a work injury.

The OIG agent interviewed appellant on December 6, 2013. Appellant informed the agent that she had short-term memory loss due to stress and had a nervous breakdown after R.L. became her supervisor. Appellant asserted that R.L. harassed her by following her while she was delivering her route and also when she was not working. She indicated that on October 19, 2013 she had more than five shots of vodka while delivering mail and drove back to work and informed her supervisor that she had consumed alcohol. Appellant stated that she consumed alcohol every single day because of stress.

In a decision dated September 30, 2014, OWCP denied appellant's claim for an emotional condition as the evidence of record did not support that the events occurred as alleged.

On October 6, 2014 appellant, through counsel, requested a telephonic hearing which was held on May 12, 2015.

In a decision dated July 28, 2015, an OWCP hearing representative affirmed the September 30, 2014 decision.

LEGAL PRECEDENT

To establish an emotional condition in the performance of duty, a claimant must submit the following: (1) medical evidence establishing that he or she has an emotional or psychiatric disorder; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the emotional condition.[3]

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,[4] the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under FECA. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within coverage under FECA.[5] When an employee experiences emotional stress in carrying out his or her employment duties, and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his or her emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of the work.[6] Allegations alone by a claimant

[3] *George H. Clark*, 56 ECAB 162 (2004).

[4] 28 ECAB 125 (1976).

[5] *See Robert W. Johns*, 51 ECAB 137 (1999).

[6] *Supra* note 4.

are insufficient to establish a factual basis for an emotional condition claim.[7] Where the claimant alleges compensable factors of employment, he or she must substantiate such allegations with probative and reliable evidence.[8] Personal perceptions alone are insufficient to establish an employment-related emotional condition.[9] 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.[10]

ANALYSIS

Appellant alleged that her supervisor R.L. followed her in a postal van when she was driving her personal vehicle and disabled from work due to another work-related injury. She alleged that on March 13, 2012 he reviewed the "piece count" on his clipboard and became angry with appellant when she needed an extra hour on her mail route. Appellant believed that management retaliated against her when, on March 13, 2012, her start time was pushed back to 8:30 a.m. to keep her on the street for a full eight hours with no office time. Appellant stated that other mail routes were unchanged. She generally alleged that she was overworked and assigned an "overburdened" mail route. Appellant alleged that she was harassed, bullied and mentally abused by R.L. and he sought reprisal because she filed an EEO complaint. She further alleged that R.L. threatened to fire her if she did not deliver her mail route in eight hours.

The Board must thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA. Appellant has attributed her emotional condition to performing her regular or specially assigned duties of her position. She generally alleged that she was overworked and assigned an "overburdened" mail route which could not be delivered in the allotted time. However appellant provided insufficient corroborating evidence to establish the allegation. There is no evidence to support this general allegation. P.W. indicated that appellant was taking a significant amount of time on her route and was having issues completing her route in the required time. Appellant asserted that her route took eight hours and 49 minutes each day regardless of the volume of mail. She has identified the time constraints in delivering mail caused her stress but she has not provided evidence to establish this allegation nor has she shown how this is to be considered overwork. Thus, to the extent that appellant alleged overwork,[11] this has not been established by the evidence. Furthermore, she did not otherwise attribute her emotional condition to performing a

[7] *J.F.*, 59 ECAB 331 (2008).

[8] *M.D.*, 59 ECAB 211 (2007).

[9] *Roger Williams*, 52 ECAB 468 (2001).

[10] *See supra* note 4.

[11] The Board has held that overwork, as substantiated by sufficient factual information to support the claimant's account of events, may be a compensable factor of employment. *Bobbie D. Daly*, 53 ECAB 691 (2002).

specific regular or specially assigned duty in her job. Therefore, appellant has not established a compensable factor under *Cutler*.[12]

Appellant made several allegations related to administrative and personnel actions. In *Thomas D. McEuen*,[13] the Board held that an employee's emotional reaction to administrative actions or personnel matters taken by the employing establishment is not covered under FECA as such matters pertain to procedures and requirements of the employing establishment and do not bear a direct relation to the work required of the employee. The Board noted, however, that coverage under FECA would attach if the factual circumstances surrounding the administrative or personnel action established error or abuse by the employing establishment superiors in dealing with the claimant. Absent evidence of such error or abuse, the resulting emotional condition must be considered self-generated and not employment generated. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.[14]

Appellant alleged that R.L. followed her in a postal van when she was off-duty driving her personal vehicle and disabled from work due to another work-related injury. She submitted a witness statement from B.V., a coworker, dated August 23, 2013, who noted that on August 21, 2013 she saw a postal vehicle with J.S. and R.L. in it parked behind appellant's personal vehicle at a four-way stop. When appellant turned right so did the postal vehicle. However, this lone occurrence is not enough to establish factually that appellant was being followed by these two managers on August 21, 2013. Appellant submitted a statement from M.N. who noted in August 2013 he overheard R.L. joking about following appellant when she was off duty. However, M.N. did not witness such an incident nor provide any precise details of the incident and therefore his statement is insufficient to substantiate appellant's allegation of being followed. The employing establishment has either denied these allegations, or contended that it acted reasonably in these administrative matters. Appellant has presented no corroborating evidence to support that the employing establishment erred or acted abusively with regard to these allegations.

Appellant alleged that on March 13, 2012, R.L. reviewed the "piece count" on his clipboard and he became angry with appellant when she needed an hour on her mail route. The Board has found that an employee's complaints concerning the manner in which a supervisor performs his duties as a supervisor, or the manner in which a supervisor exercises his supervisory discretion fall, as a rule, outside the scope of coverage provided by FECA. This principle recognizes that, a supervisor or manager in general must be allowed to perform his duties, that employees will at times dislike the actions taken, but that mere disagreement or dislike of a supervisory or management action will not be actionable absent evidence of error or abuse.[15] Absent evidence of error or abuse, appellant's mere disagreement or dislike of a managerial

[12] *See supra* note 4.

[13] *See* 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

[14] *See Richard J. Dube*, 42 ECAB 916, 920 (1991).

[15] *See Marguerite J. Toland*, 52 ECAB 294 (2001).

action is not compensable.[16] The Board finds that appellant has not established error or abuse in this matter. Appellant provided no corroborating evidence, nor did she explain the context and specifics of this incident. There is no evidence that the employing establishment acted unreasonably in this matter.

Appellant indicated that on March 13, 2012 the start time for her mail route and two other carrier's routes was changed to 8:30 a.m. while the routes of other carriers were unchanged. She believed that management was retaliating against her by pushing her start time to 8:30 a.m. to keep her on the street for a full eight hours with no office time. To the extent that appellant has alleged that the change in shift constituted punishment or was inconvenient this would be analogous to emotional frustration in not being allowed to work specific hours.[17] It is well established that when disability results from an employee's frustration over not being permitted to work in a particular environment, to hold a particular position, or to secure a promotion, such disability does not arise in the performance of duty.[18] Appellant has not submitted sufficient evidence to establish that the administrative change in her tour of duty constituted administrative error or abuse by employing establishment management.[19] The record establishes that appellant was not singled out for the shift change as two other letter carriers were also affected by the change. There is no evidence that the shift change was an act of retaliation. The Board finds that the evidence of record does not establish that the change in appellant's tour of duty was unreasonable or that it was a form of harassment or discrimination.[20] Thus, appellant has not established a compensable employment factor under FECA with respect to the proposed change in work shift.

Appellant alleged that she was harassed, followed, bullied and mentally abused by R.L. who sought reprisals because she filed an EEO complaint. Appellant submitted statements from C.T., D.T., and M.N. who noted witnessing R.L. harass appellant on a number of occasions. C.T noted filing a number of grievances on appellant's behalf. To the extent that incidents alleged as constituting harassment or a hostile environment by a manager are established as occurring and arising from appellant's performance of her regular duties, these could constitute employment factors.[21] However, for harassment to give rise to a compensable disability under FECA, there

[16] *See Barbara J. Latham*, 53 ECAB 316 (2002); *see also Janet I. Jones*, 47 ECAB 345, 347 (1996), *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988). The Board finds that allegations such as improperly assigned work duties, which relate to administrative or personnel matters, unrelated to the employee's regular or specially assigned work duties and do not fall within the coverage of FECA.

[17] *See Gloria Swanson*, 43 ECAB 161 (1991) (the Board addressed case precedent which distinguished allegations concerning when changes in an employee's work shift would give rise to a compensable factor of employment). *See also George H. Clark*, 56 ECAB 162 (2004).

[18] *See supra* note 4.

[19] An administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. *Charles D. Edwards*, 55 ECAB 258 (2004).

[20] *See infra*, notes 21 and 22 and accompanying text regarding harassment.

[21] *David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

must be evidence that harassment did in fact occur. Mere perceptions of harassment are not compensable under FECA.[22]

The evidence fails to support appellant's claim for harassment as a cause for her emotional condition. The OIG conducted an investigation which revealed that the allegations made in appellant's November 4, 2013 stress injury claim, had directly coincided with her drinking while on duty on October 19, 2013. Additionally, appellant did not provide the agent with any specific instances of unprofessional interaction between her and her supervisor as she had previously reported on her Form CA-2. In an investigative interview appellant stated that on October 19, 2013, while delivering mail, she had more than five shots of vodka and drove back to the employing establishment without completing her mail route. Appellant admitted that she drank alcohol every single day because she was stressed. General allegations of harassment are insufficient[23] and in this case appellant has not submitted sufficient evidence to establish disparate treatment by her supervisor.[24] Although appellant alleged that her supervisor harassed her and engaged in actions which she believed constituted harassment, she provided no corroborating evidence to establish her allegations.[25] Appellant submitted statements from B.V., C.T., D.T. and M.N. who noted witnessing R.L. harass appellant on a number of occasions. B.V. noted that on August 21, 2013 she saw a postal vehicle with J.S. and R.L. in it parked behind appellant's personal vehicle at a four-way stop. When appellant turned right, so did the postal vehicle. As noted above, this is not enough to establish factually that appellant was being followed or monitored by two supervisors. Appellant submitted a statement from M.N. who noted in August 2013 he overheard R.L. joking about following appellant when she was off duty. However, M.N. did not witness the incident. P.W. further noted that there was never any unprofessional interaction with R.L. The factual evidence fails to support appellant's claim that she was harassed by R.L. or P.W. The witness statements are not specific as to the time or place of any claimed harassing incidents or lack sufficient context to establish disparate treatment.[26] There is insufficient evidence corroborating appellant's charges that R.L. harassed her. Appellant has not established a compensable work factor with respect to the claimed harassment.

Appellant alleged that R.L. threatened, yelled and verbally abused her. The Board has recognized the compensability of verbal abuse and threats in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under FECA.[27] The Board finds that the facts of the case do not support any specific incidents of

[22] *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991). *See Joel Parker, Sr.*, 43 ECAB 220, 225 (1991) (finding that a claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence).

[23] *See Paul Trotman-Hall,* 45 ECAB 229 (1993).

[24] *See Joel Parker, Sr., supra* note 22.

[25] *See William P. George*, 43 ECAB 1159, 1167 (1992) (claimed employment incidents not established where appellant did not submit evidence substantiating that such incidents actually occurred).

[26] *See Joe M. Hagewood*, 56 ECAB 479 (2005) (without a detailed description of the specific statements made, a compensable employment factor was not established; the mere fact a supervisor or employee may raise his voice during the course of a conversation does not warrant a finding of verbal abuse).

[27] *Charles D. Edwards*, *supra* note 19.

verbal abuse. Appellant alleged that R.L. threatened to fire her if she did not deliver her mail route in eight hours. D.T., a coworker noted that one day when mail volume was high appellant asked for approval of overtime and R.L. told her to carry her route in eight hours or she would be fired. D.T. noted informing Postmaster P.W. about the verbal abuse incident but nothing was ever done to rectify the situation. However, D.T statements are not specific as to the time or place of any claimed verbal abuse and he did not provide the context for the statements or when they occurred.[28] The Board finds that the evidence of record does not support any specific incidents of verbal abuse or threats. Appellant provided no corroborating evidence to establish that specific incidents occurred at particular times and places.[29] There is no corroborating evidence to support that any verbal interaction with appellant by R.L. rises to the level of a compensable employment factor.[30]

Appellant also noted filing an EEO claim for harassment and discrimination. However, grievances and EEO complaints, by themselves, do not establish that workplace harassment or unfair treatment occurred.[31] None of the information submitted establishes improper action by the employing establishment. Thus, the evidence regarding the EEO matter does not establish a compensable employment factor under FECA.

Consequently, appellant has not established her claim for an emotional condition as she has not attributed her claimed condition to any compensable employment factors.[32]

On appeal, appellant reiterates her allegations, asserting that she has established error or abuse by the employing establishment. As explained, the Board finds that she has not established her claim for an emotional condition as she has not attributed her claimed condition to any compensable employment 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 failed to meet her burden of proof to establish an emotional condition in the performance of duty.

[28] *Supra* note 26.

[29] *See supra* note 25.

[30] *See Judy L. Kahn*, 53 ECAB 321 (2002).

[31] *James E. Norris*, 52 ECAB 93 (2000).

[32] As appellant has failed to establish a compensable employment factor, the Board need not address the medical evidence of record; *see Margaret S. Krzycki*, 43 ECAB 496 (1992).

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 26, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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