

ISSUE

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

FACTUAL HISTORY

On March 5, 2014, appellant, then a 37-year-old recreation specialist supervisor, filed an occupational disease claim (Form CA-2) alleging that he developed an emotional condition as a result of actions by management including verbal abuse, failure to provide proper instructions to perform his job, changing work duties without notice, and refusing a request for reasonable accommodations. He became aware of his condition and realized it was causally related to his employment on March 5, 2013. Appellant stopped work on March 1, 2014.

Appellant submitted a series notes from Dr. B. Cody Wright, a Board-certified psychiatrist, dated November 22, 2013 to May 15, 2014, who requested that appellant not be assigned supervisory duties beyond what was detailed in his job description. Dr. Wright recommended that appellant not work from March 3 to April 1, 2014 because his work situation exacerbated his medical condition. Appellant was also seen by a social worker for generalized anxiety disorder.

On April 18, 2014 OWCP asked appellant to submit additional evidence to include a detailed description of the employment incidents that contributed to his claimed illness. It requested that the employing establishment provide comments from a knowledgeable supervisor on the accuracy of all statements.

Appellant submitted an April 17, 2014 statement and alleged that K.D, a supervisor, and C.R., the center director, harassed and discriminated against him because of his service-connected psychological disabilities. He alleged that K.D. demanded that he accept additional responsibilities for which he had not been hired and which he was unable to perform without creating an extremely stressful situation for himself. Appellant noted that he was not part of the management team and was never consulted before he was temporarily assigned as a duty officer, which was an increase in responsibility. He asserted that the employing establishment failed to appropriately compensate him for duty officer and shift supervisor duties. Appellant alleged that K.D. verbally berated him and accused him of using his disability as an excuse. He asserted that K.D. belittled him publicly in the gym in front the students he was supervising. Appellant alleged that the reason there was a constant need for someone to cover as duty officer was because another supervisor, D.F., consistently failed to perform his duties, which included preparing a duty roster in advance for job coverage. He alleged that, on April 4, 2014, C.R. verbally threatened him to sign a document. Appellant asserted that the employing establishment failed to provide reasonable accommodations. He alleged that the management team did not elevate his request for assistance in addressing the harassment in the workplace to headquarters.

In an April 28, 2014 statement, C.R. noted that appellant's actual duties had not varied from his official position description as a recreation specialist. He advised that appellant was generally able to perform the required duties in accordance with expectation. C.R. noted, however, that appellant had performance and conduct problems. He advised that on

February 28, 2014 appellant had been issued a proposed seven-day suspension for two instances of failure to follow instruction, two instances of inappropriate conduct, and one instance of absence without official leave. C.R. provided a copy of a recreation specialist, GS-9, position description which noted responsibilities of management and supervision of less than 25 percent and administration of recreation programs and services up to 50 percent. The description noted that the position was located at a Job Corps Center and the incumbent was required to work nonstandard tours of duty, weekends, and holidays, and might require overtime on a regular and recurring basis. The job description further indicated that the incumbent would perform other duties as assigned.

Appellant submitted a response to OWCP's questionnaire and reiterated his allegations of harassment and discrimination. He advised that he had filed an Equal Employment Opportunity (EEO) complaint. Appellant also submitted copies of his timesheets.

The employing establishment submitted a May 28, 2014 statement from K.D. who confirmed that appellant was a GS-9 recreation specialist who had supervisory responsibilities. On October 7, 2013 K.D. sent out a tentative work schedule to provide supervisory coverage. He noted using bargaining unit employees as little as possible in a supervisory capacity. Appellant was asked to cover shifts as was K.D. He noted that he did not want to work from 8:00 a.m. to 4:30 p.m., but requested to work from 3:30 p.m. to 12:00 a.m. on Sundays because he was having financial problems and needed a night differential. K.D. accommodated the shift change request. He noted, however, that appellant did not report for work on Sunday evening; rather, appellant submitted a new schedule request to work Monday through Thursday from 12:00 p.m. to 8:30 p.m. and Friday 2:00 p.m. to 10:30 p.m. Appellant attributed his schedule request to his disability. K.D. requested proper medical documentation supporting why appellant could not work his current schedule. He advised that, on October 12, 2013, appellant again requested that he changed his schedule so that he could work later in the evening to assist with supervision. K.D. reported meeting with appellant more than once to inform him that he was to assist as duty officer for only 20 percent of his workload and to inform him if the situation changed. He denied that he harassed or bullied appellant. K.D. noted meeting with appellant had in June 2013 for his mid-year performance appraisal and informed appellant that he was working at an unacceptable level. He stated a formal investigation of appellant's allegations of workplace harassment revealed no evidence of harassment. K.D. noted that appellant had admitted to being a heavy drinker and having anxiety issues for years. He noted that appellant was accommodated in the workplace when he submitted appropriate medical documentation in support of his request to work only six hours a day, to not work past 10:00 p.m. and to arrive late so that he could attend therapy appointments in the mornings. K.D. submitted e-mails documenting his statement.

In a decision dated September 10, 2014, OWCP denied appellant's claim for an emotional condition as he did not meet his burden of proof to establish that he sustained an injury in the performance of duty. It explained that he did not establish an emotional condition "that arose during the course of employment and within the scope of compensable work factors."

On September 19, 2014 the employing establishment's Office of Adjudication accepted appellant's EEO complaint, in part, for further investigation. OWCP requested that the employing establishment provide additional information regarding this EEO complaint.

The employing establishment submitted a February 5, 2014 notice of proposed suspension for seven days based on a failure to follow instructions on two occasions and inappropriate conduct on August 17, 2013. It also submitted a June 19, 2014 decision where the proposed suspension had been reduced to a letter of reprimand. The employing establishment also submitted a March 6, 2014 reasonable accommodation information report, in which it approved appellant's request for an adjustment to his afternoon schedule so that he could attend morning medical appointments.

In an April 4, 2014 statement, L.C., a coworker, reported that appellant was assigned to be the shift leader at 7:30 p.m., but refused to assume the responsibilities. Appellant claimed that he was the recreation supervisor, but that his supervisor had not directed him to run the shift. L.C. indicated that for safety of the center staff and students he assumed all responsibilities of shift leader.

By statement dated April 5, 2014, C.R. acknowledged that he was informed by staff on duty that appellant had refused to act as duty officer. He attempted to reach appellant by telephone, but was unsuccessful and drove to the facility. Appellant claimed that he had not been instructed to be acting duty officer, but was a recreation specialist.

The employing establishment submitted an April 6, 2014 statement from D.F., a supervisor, who noted that on April 3, 2014 he and appellant had reviewed the work schedule and appellant's physician note indicating that appellant could work four hours a day the first week, six hours a day the second week, and eight hours a day thereafter. D.F. stated that appellant was instructed to come into work the next day from 7:30 p.m. to 11:30 p.m. to serve as the duty officer and appellant agreed. When appellant arrived at 7:30 p.m., however, he refused to be the duty officer.

On November 8, 2014 appellant requested reconsideration of the September 10, 2014 decision.

On December 19, 2014 the employing establishment's injury compensation office indicated that appellant had requested several schedule changes as reasonable accommodation. On October 7, 2013 appellant had requested a change in work schedule from Sunday 3:30 p.m. to 12:00 a.m. instead of 8:00 a.m. to 4:30 p.m.; on October 2, 2013 appellant had requested a reasonable accommodation for a lower grade position; and appellant requested a work schedule from Monday to Thursday from 12:00 p.m. to 8:30 p.m. and Friday 2:00 p.m. to 10:30 p.m. K.D. noted administrative actions in response to appellant's reasonable accommodation request included: changing appellant's work schedule in October 2013 to work later in the evenings to assist with supervision to accommodate appellant; confirming appellant was not required to supervise the residential department more than 20 percent of his weekly duties; adjusting appellant's schedule so that he could attend therapy appointments during the day; and adjusting appellant's schedule in April 2014 so that he would not have to work past 10:00 p.m.

C.R. denied the allegation that, on April 4, 2014, he publicly ridiculed appellant; rather, he explained that he and appellant were in a conference room and spoke in a normal tone. He further noted that appellant had not signed a document on that evening. C.R. advised that an

employing establishment investigation of appellant's harassment allegations found no evidence of harassment by K.D., but found that appellant had sent inappropriate texts to K.D.

In a decision dated April 13, 2015, OWCP denied modification of the decision dated September 10, 2014 finding that appellant had not established any compensable employment factors.

On July 28, 2015 appellant, through counsel, requested reconsideration. Counsel continued to claim that appellant had developed an emotional condition in the performance of duty. In support of his request, appellant submitted a July 10, 2014 declaration (statement) by appellant, which detailed allegations of discrimination and harassment. Also submitted was a November 13, 2014 affidavit and a December 2, 2014 rebuttal affidavit, which described alleged incidents of harassment and discrimination by management. Appellant submitted a psychological evaluation dated June 10, 2015, which diagnosed generalized anxiety disorder, exacerbated by his work environment.

Appellant submitted witness statements from M.R., a coworker, dated May 11 and December 8, 2014, who observed appellant working as a shift supervisor and duty officer. M.R. indicated that appellant had a 50 percent service-connected disability with generalized anxiety disorder and did not handle stress well. He noted K.D. would harass appellant by assigning him extra duties outside of his position description in an attempt to make appellant fail. Appellant reported receiving threatening and intimidating e-mails and being verbally abused by K.D. In a December 6, 2014 witness statement, I.M., a recreation assistant, indicated that appellant was his supervisor and was often directed by K.D. to be duty officer. In a December 8, 2014 statement, G.A., a coworker, witnessed appellant begin to shake and collapse in a meeting. A December 15, 2014 witness statement from S.D., a coworker, noted that appellant described his anxiety and panic attacks due to work-related issues.

The employing establishment submitted an August 12, 2015 statement from E.L., an injury compensation specialist, who indicated that the employing establishment had accommodated appellant's schedule change requests that would allow him to attend therapy appointments and to earn additional premium pay for Sunday evening shifts. Additionally, E.L. noted that K.D. had scheduled himself to work evenings and Sundays to assist with overall center management in an effort to ease appellant's concerns about being in charge alone. She indicated that, as a GS-9, appellant was responsible for some management and administration functions as referenced in his position description. E.L. further indicated that employing establishment employees are not provided higher pay when taking on acting duties such as those described by appellant and that this was considered to be "other duties assigned" in the position description.

On December 16, 2015 appellant asserted that K.D.'s statements were untrue. He indicated that it became routine for him to be the duty officer, which took away from the job he was hired to do as a recreation specialist. Appellant noted that, as a GS-9 recreation specialist, he was not responsible for management and administration functions within the recreation department, but it became a daily occurrence that he was required to be duty officer which increased his stress level.

In a decision dated January 8, 2016, OWCP denied modification of the decision dated April 13, 2015.

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 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 has alleged that K.D. and C.R. harassed and discriminated against him because of his service-connected psychological disabilities. He alleged that K.D. demanded that he

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

⁴ 28 ECAB 125 (1976).

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

⁶ *Lillian Cutler*, *supra* note 4.

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.

accept responsibilities for which he had not been hired and which created an extremely stressful situation for him. Appellant indicated that he was not part management and had never been consulted when he was temporarily assigned as a duty officer, which was a major increase in responsibility. He asserted that the employing establishment did not appropriately compensate him for duty officer and shift supervisor duties which he claimed were above his grade level. Appellant also alleged that K.D. verbally berated him and that C.R. verbally threatened him. He asserted that the employing establishment failed to provide him reasonable accommodations. Finally, appellant alleged that the employing establishment management team did not appropriately address his concerns about workplace harassment.

The Board must review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA. Appellant has attributed his emotional condition to performing his regular or specially assigned duties of his position. He generally alleged that he was overworked and was assigned additional responsibilities as a duty officer where he was responsible for the entire facility and he was unable to perform the duties without experiencing extreme stress. Appellant submitted witness statements from M.R. and I.M. who noted that appellant was often directed by K.D. to be duty officer. However, these witness statements provided insufficient corroboration of any specific incidents. C.R. disputed appellant's allegations and explained that appellant's position as a recreation specialist, GS-9, did have management and supervision responsibilities, as well as other duties as assigned. He noted that appellant's actual duties did not vary from his official description and that appellant was generally able to perform the required duties in accordance with expectation. Similarly, E.L. confirmed that, as a GS-9, appellant was responsible for some management and, administration functions and, when he took on acting duties such as those described by him, these were considered "other duties assigned" in the position description. The Board has held that overwork, if substantiated by sufficient factual information to support the claimant's account of events, may be a compensable factor of employment.¹¹

The Board finds, however, that appellant has provided insufficient evidence to establish these allegations of overwork and being assigned duties outside his position description. 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

¹¹ *Bobbie D. Daly*, 53 ECAB 691 (2002).

¹² *See supra* note 4.

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

whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.¹⁴

Appellant alleged that K.D. demanded that he accept additional responsibilities that he was not hired to perform and that appellant was unable to perform those duties without experiencing extreme stress. He further alleged that he was not part of the management team and was never consulted when he was temporarily assigned as a duty officer. The Board notes that the assignment of work is an administrative function¹⁵ and the manner in which a supervisor exercises his or her discretion falls outside the ambit of FECA. In a statement dated April 28, 2014, C.R. noted that appellant's actual duties did not vary from his position description as a recreation specialist and noted that appellant was generally able to perform the required duties in accordance with expectation. Similarly, K.D. indicated on May 28, 2014 that appellant's position as a GS-9 recreation specialist had supervisory responsibilities. Absent evidence of error or abuse, appellant's mere disagreement or dislike of a managerial action is not compensable.¹⁶ The Board finds that he has not offered sufficient evidence to establish error or abuse regarding his work assignments. The employing establishment has either denied appellant's his allegations or explained the reasons for its actions in these administrative matters. Appellant has presented no corroborating evidence to support that the employing establishment acted unreasonably in making his work assignments. Accordingly, he has not established a compensable factor of employment in this regard.

Appellant asserted that the employing establishment failed to pay him appropriate compensation for duty officer and shift supervisor duties he performed above his grade level. This is an administrative matter and, as noted, a reaction to such matters fall outside the coverage of FECA absent evidence of error or abuse.¹⁷ The Board finds that no evidence of error or abuse in this administrative matter. E.L. indicated that employing establishment employees are not provided higher pay when taking on acting duties such as those described by appellant and is considered "other duties assigned" in the position description. There is no other contradicting evidence.

Appellant alleged that the reason there was a constant need for someone to cover as duty officer was because K.F. consistently failed to perform his job duties, which included preparing a duty roster in advance for job coverage. He further alleged that the employing establishment management team failed to elevate his request for assistance in addressing the harassment in the workplace to headquarters. The Board has found that an employee's complaints concerning the

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

¹⁵ *Donney T. Drennon-Gala*, 56 ECAB 469 (2005).

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 *id.*; see also *Nona Stanford*, Docket No. 00-1295 (issued May 22, 2001) (no evidence of error or abuse by the employing establishment with respect to appellant's allegations of not being properly compensated).

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.¹⁸ Absent evidence of error or abuse, appellant's mere disagreement or dislike of a managerial action is not compensable.¹⁹ The Board finds that appellant has not established error or abuse in this matter. Appellant provided no corroborating evidence regarding this allegation nor did he explain the context and specifics of this incident. There is no evidence that the employing establishment acted unreasonably in this matter.

Appellant asserted that the employing establishment did not provide him with reasonable accommodations. The Board notes that reasonable accommodation issues are not generally related to the employment; they are administrative functions of the employing establishment and not duties of the employee.²⁰ The employing establishment submitted an August 12, 2015 statement from E.L., injury compensation specialist, explaining that the employing establishment had accommodated appellant's requests for schedule changes that would allow him to attend his therapy appointments and also to earn additional premium pay for Sunday evening shift. Additionally, E.L. noted that K.D. had scheduled himself to work evenings and Sundays to assist with overall center management in an effort to ease appellant's concerns about being in charge alone. Appellant has failed to establish that the employing establishment erred or acted abusively in this matter.

Appellant alleged that he was harassed and discriminated against by K.D. and C.R. because of his service-connected mental disabilities. He alleged that K.D. had verbally berated him, accused him of using his disability as an excuse, and belittled him in front of students that he supervised. Appellant further indicated that on April 4, 2014 C.R. verbally threatened him to sign a document. 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 his regular duties, these could constitute employment factors.²¹ However, for harassment to give rise to a compensable disability under FECA, there 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 his emotional condition. C.R. denied appellant's allegation that on April 4, 2014 he publicly ridiculed appellant. Rather, C.R. explained that appellant and he were in a conference room and that he had spoken to appellant in a normal tone. He advised that an employing establishment

¹⁸ See *Marguerite J. Toland*, 52 ECAB 294 (2001).

¹⁹ *Supra* note 16.

²⁰ See *Judy Kahn*, 53 ECAB 321 (2002).

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

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).

investigation of appellant's allegations of harassment found no evidence that K.D. had harassed appellant, but found that appellant had sent inappropriate texts to K.D. K.D. also denied appellant's allegations that he had harassed or bullied appellant. He indicated that appellant had complained of being threatened by management, but he failed to cite any specific instances of harassment. Although appellant alleged that his supervisor harassed and engaged in actions, which he believed constituted harassment, he provided insufficient corroborating evidence to establish his allegations.²³ He submitted statements from M.R. who noted that K.D. would harass appellant by assigning him extra duties outside of his position description in an attempt to make appellant fail. Appellant also submitted statements from G.A., I.M., and S.D. who noted witnessing appellant's panic attacks. The factual evidence, however, fails to support his allegations of harassment by C.R. or K.D. The witness statements are not specific as to the time or place of any claimed harassing incidents and lack sufficient context to establish any disparate treatment. The Board finds that appellant has not established a compensable work factor with respect to the claimed harassment.

Appellant alleged that K.D. and C.R. had verbally berated and threatened him. 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.²⁴ The Board finds that the facts of the case do not support any specific incidents of verbal abuse. C.R. and K.D. denied ridiculing or threatening appellant. As noted, witness statements from G.A., I.M., M.R., and S.D. were not specific as to the time or place of any claimed verbal abuse nor did they provide context for any of their statements.²⁵ The Board finds that appellant has provided insufficient corroborating evidence to establish that specific incidents occurred at particular times and places.²⁶ There is no corroborating evidence to support that any verbal interaction with appellant by C.R. or K.D. rose to the level of a compensable employment factor.²⁷

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.²⁸ None of the information submitted established improper action by the employing establishment. Thus, the evidence regarding EEO matter does not establish a compensable employment factor under FECA.

²³ 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).

²⁴ *Charles D. Edwards*, 55 ECAB 258 (2004).

²⁵ See *Joe M. Hagedwood*, 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).

²⁶ See *supra* note 23.

²⁷ See *Judy L. Kahn*, 53 ECAB 321 (2002).

²⁸ *James E. Norris*, 52 ECAB 93 (2000).

Consequently, appellant has not established his claim for an emotional condition as he has failed to establish any compensable employment factors.²⁹

On appeal, appellant reiterated his allegations, asserting that he has established error or abuse by the employing establishment. As explained, the Board finds that he has not established 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 the evidence fails to establish that appellant sustained an emotional condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the January 8, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 12, 2017
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

²⁹ 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).