

FACTUAL HISTORY

On June 18, 2014 appellant, then a 45-year-old customer service supervisor, filed an occupational disease claim (Form CA-2) alleging that she developed depression, panic attacks, generalized anxiety, post-traumatic stress disorder (PTSD), and reflex-esophagitis as a result of harassment and stress at work. She first became aware of her claimed condition on November 23, 2009 and realized its relation to her federal employment on December 21, 2012. Appellant stopped work on December 21, 2012. On the reverse side of the claim form T.P., appellant's supervisor, explained that appellant was upset at and very irate with her when she left work on December 21, 2012, but appellant did not report an injury when she walked out of the office.

In a 14-page statement dated May 12, 2014, appellant related that she had worked for the employing establishment since 1990 but she did not begin to experience anxiety and depression until she became a customer service supervisor. She described two different occasions when H.O., the postmaster, yelled and screamed at her over the telephone because either the mail or the carriers were late to arrive back at the employing establishment. Appellant asserted that she experienced anxiety and chest pains. She noted that the postmaster instructed her once to deliver mail in 100 degree weather as retaliation because carriers had left the post office late. Appellant noted another incident when H.O. requested a meeting with her and threatened to fire her if she failed to follow instructions. She also related that the postmaster allowed other supervisors to transfer to other positions within the employing establishment, but she had applied for five nonsupervisory jobs and had not even gotten an interview. Appellant also explained that she sent a letter *via* certified mail to the district manager to request reassignment to a totally different department with less stress, but she never heard back from him personally. She believed that that postmaster was retaliating against her and was behind district manager never receiving her requests.

Appellant also asserted that she experienced harassment from her supervisor, T.P. She indicated that other carriers informed her that T.P. made fun of the way she dressed and complained that appellant was "no good." Appellant described in detail several other incidents where she believed T.P. harassed her and tried to get her fired. She related that T.P. reprimanded her for not greeting the employees one morning and for being too nonchalant when a customer complained about her mail delivery. Appellant noted that, during a dental appointment, T.P. constantly called and texted her on her cell telephone even though she had properly notified T.P. of her appointment. When she returned to the post office after her appointment, the carriers were still in the building. Appellant began to experience an anxiety attack because she knew that T.P. would blame her for the carriers leaving late and returning to the station late. She reported that T.P. retaliated against her and instructed her to take the late outgoing mail to the processing plant that night even though that was not part of her job duties and the processing plant was 50 minutes away. Appellant also mentioned another incident when the express mail arrived late and T.P. yelled loudly that appellant needed to get over there and help them deliver the express mail.

Appellant further described situations wherein she believed T.P. was trying to set her up to be fired. She reported that T.P. instructed her to hide mail in her office, falsify employees' clock rings, falsify e-mails, and lie to the postmaster and acting city manager that all the carriers were off the street even though they were still out delivering mail. Appellant explained that T.P. once asked her to falsely scan the hot case because it would appear that the mail in their unit was up on time, even though the mail was not timely on that particular morning. She related another situation when T.P. instructed her to discipline a clerk for an express mail failure. When appellant could

not pinpoint the clerk who handled the express mail that morning, T.P. threatened to give appellant a letter of warning if she did not do what was asked. Appellant also indicated that one day she was looking at her personnel file on-line and noticed a letter of warning that she never signed. She asserted that the manager forged this letter and placed it in her personnel file. Appellant provided a letter of warning dated September 23, 2009 which charged her with Improper Conduct (Failure to Follow Instructions) for incidents that occurred on August 26 and 29, 2009.

Appellant described another incident when T.P. sent her an e-mail with a read receipt, which asked appellant to adjust her usual work schedule of 8:00 a.m. to 5:00 p.m. to 10:00 a.m. to 7:00 p.m. that week because another supervisor had final examinations at school. She explained when she told T.P. that she could not work that shift on December 26 because she had to take care of her disabled son, T.P. yelled and threatened to write her up and personally remove her from the employing establishment. Appellant related that they had a screaming match until she accused T.P. of forging her signature. She noted that T.P. then stopped arguing and returned to her office. Appellant explained that she was upset, crying, visibly shaking, her head started hurting, and she vomited in the trash can. She sought medical treatment from her doctor who advised appellant not to work until she was treated by a psychiatrist. Appellant described another occasion when T.P. told her that the acting city manager had requested that she work the following Saturday even though she was scheduled to not work. She explained that her schedule was in writing and that she worked every other Saturday. T.P. told appellant that she was instructed to write appellant up and issue a letter of warning if appellant did not work that Saturday. Appellant explained that she did not work that Saturday because her schedule was in writing, but she experienced stress and anxiety about returning to work on Monday. She provided a letter dated October 26, 2012 by T.P., which confirmed that appellant's work hours were from 8:00 a.m. -- 5:00 p.m., Monday through Friday, as needed with every other Saturday off. Appellant reported that days after this incident she noticed that T.P.'s behavior changed towards her. She indicated that T.P. stopped sending her e-mails and complained to her that her disabled son's doctor's appointments were excessive. Appellant related that T.P. reprimanded her and informed her that the other supervisors were tired of working around her schedule.

Appellant asserted that another individual who harassed and provoked her was the acting city manager, L.H. She related an incident when L.H. called her to see if the outgoing mail had made the evening dispatch truck. When appellant told him it had not and tried to explain what happened, L.H. raised his voice and became very angry towards her. She indicated that they yelled at each other back and forth until she finally hung up the telephone. Appellant noted that she was shaking and crying and was so upset that she vomited. She called in sick the next day due to work-related stress and sought medical treatment. Appellant reported that when she returned to work one week later, she was told that L.H. was preparing to fire her. She explained that she could not eat or sleep for a couple of days due to the anxiety she experienced regarding him trying to fire her.

Appellant described another incident on a Saturday morning when the employing establishment facility was busy and L.H. called to see how many routes she had left open. When she told him that she still had seven routes open, L.H. informed her that he would send her two carriers from another facility to help out. Appellant indicated that when no other carriers showed up after a few hours, she called L.H. and he denied ever saying that he was going to send two additional carriers. She became very upset and began to yell at him. Appellant noted that L.H. eventually sent her one relief carrier. She mentioned another incident when L.H. called and

addressed her by another name. When appellant repeatedly corrected her name, he got mad and used profanity so she hung up the telephone. Appellant noted that the next day T.P. told her that she better be nice to L.H.

In addition to harassment from her supervisors, appellant asserted that she experienced stress and anxiety when she was the only supervisor working and management blamed her for things that went wrong. She explained that she was under a lot of stress to get the carriers back to the post office on time so that the mail could make the outgoing dispatch truck. Appellant alleged that, on a typical Saturday morning, she was the only supervisor working and was responsible for sixty employees, two post offices, and one satellite post office. She related that she felt overwhelmed and stressed because the mail was often late, carriers complained about not having vehicles on their route, the telephones constantly rang, and the window clerks asked for help at the customer service window because the service line was out the door. Appellant described one incident when the express mail arrived 30 minutes before the commitment time of 12:00 p.m. and she had to use her personal vehicle to deliver the express mail. She mentioned another occasion when she got into an argument with a carrier about what time he should return from his route. Appellant explained that while that carrier was on the street, she experienced chest pains and stress about that carrier being late because the postmaster was going to yell at her and threaten to fire her.

Appellant explained that she was still receiving medical care from her psychiatrist and had not yet been released back to work. She indicated that she still experienced crying spells, anxiety, and sleep deprivation when she thought about her current work situation. Appellant reported that she recently learned from another employee that T.P. was trying to involve her in a case with the Equal Employment Opportunity (EEO) Commission even though she had not worked since December 21, 2012. She provided a written statement dated March 10, 2014 by T.M., a rural carrier, who noted that she recently filed an EEO complaint against T.P. T.M. explained that the complaint was about a letter of warning that T.P. issued to her because of an alleged note that appellant forged. She stated that she did not know why T.P. brought up appellant's name because appellant had not worked at the employing establishment since December 2012.

Along with her detailed statement, appellant provided medical reports dated March 14 to June 16, 2014 by Dr. David Israel, a clinical psychologist. He explained that based on examination, appellant's current levels of clinical anxiety and depression appeared related to an extended history of on-the-job stress. Dr. Israel reported diagnoses of generalized anxiety disorder, major depressive disorder, and post-traumatic stress disorder. In a handwritten attending physician's report, he noted a history of injury of a hostile work environment and parent/child conflict.

Appellant was also treated by Dr. Prakash G. Ettigi, a Board-certified psychiatrist and neurologist, who noted that appellant continued to have anxiety and depression with panic attacks when she thought about returning to work due to the harassment and mistreatment she received by supervisors and coworkers. Dr. Ettigi related that appellant described these incidents in great details in the attached document. He reported that appellant suffered from PTSD with panic attacks and was unable to work. Dr. Ettigi opined that the "stress and problems from her work has contributed greatly to her condition."

By letter dated July 3, 2014, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested that she respond to an attached questionnaire regarding the factual element of her claim and provide a narrative medical report by her physician which established that her diagnosed conditions of generalized anxiety disorder, major depressive disorder, and PTSD were causally related to her federal employment. Appellant was afforded 30 days to submit the requested information. A similar letter requesting additional information was also sent to the employing establishment.

A health and resource manager at the employing establishment, responded to OWCP in a letter dated July 10, 2014. He related that appellant alleged several encounters about various postal managers “yelling, screaming, retaliation, and harassment,” but did not submit any witness statements or other proof to validate her claim. The health and resource manager noted that an investigation was conducted regarding appellant’s allegations and the preponderance of evidence demonstrated that none of the occurrences appellant described had any merit. He also pointed out that appellant’s allegation did not surface until administrative action was taken against her for failure to perform her duties. The health and resource manager provided an August 2, 2013 letter to appellant’s Congressman, which explained the employing establishment’s investigation into appellant’s complaints and their findings that appellant’s allegations did not have any merit.

In an undated statement, Supervisor T.P. expressed her disagreement with appellant’s contentions. She explained that when appellant left her employment, the workload was being shared among four employees at the employing establishment. T.P. reported that on most days appellant’s workload was much less because she was absent due to Family and Medical Leave Act (FMLA) leave for her son’s various medical appointments or for court. She noted that there were no detrimental work factors or staffing shortages that appellant had to absorb. T.P. explained that appellant’s duties did not vary from the official description and related that appellant performed her duties as expected.

Appellant indicated in a letter dated July 24, 2014 that she previously filed an original traumatic injury claim (OWCP File No. xxxxxx447) on January 28, 2013. She noted that T.P. had a history of yelling, screaming, belittling employees, and using profanity. Appellant provided a list of mail carriers that T.P. had yelled at, belittled, and disrespected and explained that they feared retaliation if they gave a statement.

On August 8, 2014 OWCP received appellant’s signed and completed questionnaire form dated July 15, 2014. Appellant explained that she felt like she was being retaliated against, and set up. She noted that she witnessed other supervisors being set up and fired and asserted that T.P., H.O., and L.H. would have done that to her. Appellant related that after her doctor placed her off work, she filed an EEO claim against T.P. for not paying her for almost three months even though she was on FMLA leave and for forging her signature on the letter of warning. She indicated that she was not under any outside stress, except for some stress in dealing with the inability to provide for her son and pay bills and some family concerns over the care and well-being of her medically disabled son. Appellant reported that she was not sure how her condition developed, but she was diagnosed by her doctor in 2009. She described symptoms of anxiety, heart pounding, major depression, panic attacks, PTSD, and reflex-esophagitis. Appellant noted that her condition flared up during stressful times at work.

Appellant submitted a medical report dated September 13, 2012 by Dr. Theresa A. Vannier, an internist, for treatment of reflux esophagitis and complaints of chest pain for the past month. She also submitted various disability status notes which indicated that appellant was receiving medical treatment from November 23 to December 3, 2009 and from July 9 to 12, 2010 for situational stress. Additional work excuse notes further demonstrated that appellant was unable to work for the period August 26 to September 21, 2011. She also resubmitted her original 14-page statement.

In an affidavit dated July 25, 2014, M.B., a supervisor at the Brook Road, Richmond, VA post office, noted that the postmaster had a history of displaying abusive behavior on the job towards his employees and management staff. She further stated that she had overheard the postmaster speaking to appellant in a nonprofessional manner.

H.A., a letter carrier for the employing establishment, also provided an affidavit dated July 31, 2014. He indicated that he had worked at the East End Post Office under T.P. for years and reported that she constantly harassed, yelled, belittled, and threatened him at work in front of his peers. H.A. described a specific incident that happened the previous year when T.P. yelled and used profanity against him while he was on his route.

Appellant continued to seek medical treatment from Dr. Israel and provided reports dated July 31 to December 22, 2014 for treatment for generalized anxiety disorder, major depressive disorder, reflex-esophagitis, and PTSD.

By decision dated April 6, 2015, OWCP denied appellant's emotional condition claim. It determined that the employment factors which appellant alleged caused or contributed to her emotional condition did not occur as alleged or were not considered compensable factors of employment. OWCP found, therefore, that appellant had not established that her emotional condition arose in the performance of duty as alleged.

On February 23, 2016 appellant, through counsel, requested reconsideration. Counsel asserted that OWCP failed to develop appellant's allegation that she was stressed because she was the only supervisor at her work location and was blamed for everything that went wrong. He further noted that although appellant complained about her supervisors's wrongdoings, each of these perceived wrongdoings pertained to an effort on her part to perform her job duties. Counsel requested that OWCP shift its focus from appellant's anger against management to the underlying cause of her emotional problems: her failing efforts to meet the demands of her job. He asserted that the evidence showed that appellant experienced debilitating emotional stress in carrying out her employment duties, both due to the intensity of the assigned duties and her long, overtime hours. Counsel submitted various paystubs, which indicated that appellant worked extensive overtime.

Counsel also provided a September 26, 2013 letter from C.L., acting deputy assistant Inspector General, to appellant's Congressman, which explained that an investigation substantiated appellant's allegation that her signature on a letter of warning was forged. He indicated that the report of investigation was forwarded to postal administrative personnel for action that they may deem to be appropriate.

In an attached statement, appellant noted that she worked as a customer service supervisor for the employing establishment from January 7, 2007 to December 21, 2012 and described her duties. She explained that the normal duties of her job were difficult and exhausting and that over time they had become emotionally overwhelming. Appellant alleged that her job duties seemed to be beyond the ability of any one person to do alone. She reported that for years she was the only supervisor on duty on Saturdays, which left her to manage 60 employees, two post offices, and one satellite post office alone without any help.

Appellant alleged that her normal day was extremely long, hectic, and chaotic. She described that a typical Saturday included the mail truck (which brought mail from elsewhere for delivery in her area) always arriving late, sometimes two or more hours beyond the normal time. Appellant explained that the late arrival time meant that she had mail carriers sitting around without anything to do, resulting in considerable overtime for which she would be held accountable for. She indicated that she felt overwhelmed and completely stressed out. Appellant reiterated the incident when she had to deliver the express mail with her own personal car. She pointed out that she worked more than 12 hours that day. Appellant explained that while she strongly felt that management failed to adequately support her in her job, it was her normal duties that were too overwhelming for her to handle that completely stressed her out.

By decision dated June 27, 2016, OWCP denied modification of its April 6, 2015 decision. It determined that the evidence appellant submitted along with her reconsideration request, including her statement and additional documents, only reiterated her prior allegations. OWCP found that the evidence failed to demonstrate that appellant had established a compensable employment factor.

LEGAL PRECEDENT

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment.³ There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the concept or coverage of workers' compensation.⁴ In the case of *Lillian Cutler*,⁵ the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition under FECA. Where the injury or illness results from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employing establishment or by the nature of the work, the injury or illness comes within the coverage of FECA.⁶ On the other hand, when an injury or illness results from an employee's feelings of job insecurity *per se*, fear of a reduction-in-force or his or her frustration from not being permitted to work in a particular environment or hold a particular position, unhappiness with doing work, or

³ *L.D.*, 58 ECAB 344 (2007); *Robert Breeden*, 57 ECAB 622 (2006).

⁴ *A.K.*, 58 ECAB 119 (2006); *David Apgar*, 57 ECAB 137 (2005).

⁵ 28 ECAB 125 (1976).

⁶ *Cutler*, *id.*; see also *Trudy A. Scott*, 52 ECAB 309 (2001).

frustration in not given the work desired or hold a particular position, such injury or illness falls outside FECA's coverage because they are found not to have arisen out of employment.⁷

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

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regularly or specially assigned work duties of the employee and are not covered under FECA.¹¹ 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.¹² In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.¹³

To the extent that disputes and incidents alleged as constituting harassment and discrimination by supervisors and coworkers are established as occurring and arising from the employee's performance of his or her regular duties, these could constitute employment factors.¹⁴ However, for harassment or discrimination to give rise to a compensable disability under FECA, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under FECA.¹⁵

An employee has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by employment factors.¹⁶ This burden includes the submission of a detailed description of the employment factors or conditions which he or she believes caused or adversely

⁷ *William E. Seare*, 47 ECAB 663 (1996).

⁸ *J.F.*, 59 ECAB 331 (2008).

⁹ *M.D.*, 59 ECAB 211 (2007).

¹⁰ *Roger Williams*, 52 ECAB 468 (2001).

¹¹ *Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

¹² *William H. Fortner*, 49 ECAB 324 (1998).

¹³ *Ruth S. Johnson*, 46 ECAB 237 (1994).

¹⁴ *David W. Shirey*, 42 ECAB 783, 795-96 (1991).

¹⁵ *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

¹⁶ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

affected a condition for which compensation is claimed and a rationalized medical opinion relating the claimed condition to compensable employment factors.¹⁷

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, OWCP, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable work factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed compensable factors of employment and may not be considered.¹⁸ If an employee does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor. As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim. The claim must be supported by probative evidence.¹⁹ If a compensable factor of employment is substantiated, OWCP must base its decision on an analysis of the medical evidence.²⁰

ANALYSIS

Appellant alleged that she developed depression, panic attacks, generalized anxiety, PTSD, and reflex-esophagitis as a result of stress from completing her normal duties as a customer service supervisor and due to harassment by management.

That Board finds that as appellant has alleged that she sustained an emotional reaction due to her specific job duties, the Board notes that she has named a compensable work factor under *Cutler*.²¹

Specifically, appellant asserted that she felt emotionally overwhelmed because her job duties were difficult and exhausting as they were beyond the ability of one person to do alone. She indicated that for many years she was the only supervisor on duty when she worked on Saturdays and had to manage 60 employees, two post offices, and one satellite post office without any help. Appellant related that she felt overwhelmed and stressed because the mail was often late, carriers complained about not having vehicles on their route, the teletelephones constantly rang, and the window clerks asked for help at the customer service window because the service line was out the door. She stated: “it was the ordinary, day-to-day stress of my assigned job duties that ultimately led to my emotional difficulties.”

In *C.S.*,²² the Board found that a claimant had alleged a credible employment factors when she attributed her emotional condition and resultant physical conditions to the fact that she was required to supervise between 50 and 70 nurses, ensure credentials were current, and engage in

¹⁷ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

¹⁸ *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹⁹ *Charles E. McAndrews*, 55 ECAB 711 (2004).

²⁰ *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

²¹ See *supra* note 5.

²² Docket No. 10-2266 (issued September 30, 2011).

case management. The Board noted that the claimant had related her emotional condition to specific aspects of her job under *Cutler*. Similarly, in this case, appellant alleged and counsel continued to allege on appeal that appellant experienced stress and anxiety as a result of supervising 60 employees, 2 post offices, and 1 satellite post office on Saturdays when she was the only supervisor working and working excessively long hours. The Board finds that appellant's allegations are credible and were never directed controverted by the employing establishment.²³

Counsel provided various paystubs, which indicated that on average she worked more than 40 hours per week. Evidence corroborating that an employee working overtime establishes a compensable factor of employment as the employee's emotional reaction arises from her regular or specially assigned duties or to an imposed employment requirement, and thus comes within the coverage of FECA.²⁴ Thus, the Board finds that appellant has attributed her emotional reaction to her regular or specially assigned work duties or to a requirement imposed by the employing establishment and has established a factual foundation for her claim.

Appellant has also alleged that she experienced an emotional reaction because she was the victim of harassment by her supervisors. She alleged that T.P. acted abusively in forging her signature in a letter of warning and including it in her personnel file. Appellant provided a letter of warning dated September 23, 2009 which charged her with Improper Conduct (Failure to Follow Instructions) for incidents that occurred on August 26 and 29, 2009. If she alleges a compensable factor due to a personnel or administrative action it must be shown that the employing establishment erred or acted abusively in such action.²⁵ On the other hand, 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 or personnel matter, coverage will be afforded.²⁶

In this case, the record contains a September 26, 2013 letter from the Office of the Inspector General, which noted that an investigation substantiated appellant's allegation that her signature on a letter of warning was forged. However, the Board finds the evidence of record insufficient to establish that the forgery was done by her supervisor. Although appellant believed that her signature was forged by T.P., the investigative report promulgated by the OIG due to her complaint made no findings as to who forged her name and whether it was a supervisor or employee.²⁷ As such appellant has not established that the alleged forgery was error or abuse on the part of the employing establishment.

Many of appellant's other allegations of wrongdoing by her supervisor pertain to changes to her work schedule and the assignment of her duties. The Board has held that assignment of work duties and changing of work schedules are administrative functions of the employing

²³ See *id.*

²⁴ See *L.D.*, Docket No. 15-1831 (issued September 21, 2016).

²⁵ *Supra* note 11.

²⁶ *Supra* note 12.

²⁷ *Supra* note 9.

establishment.²⁸ Accordingly, the employee must submit evidence that management has erred or acted abusively.²⁹

The Board finds that appellant has not submitted any evidence to demonstrate that her changes to the work schedule and assignment of duties rose to the level of abuse or error. Appellant asserted that T.P. wanted to adjust her work schedule to 10:00 a.m. to 7:00 p.m. and also asked her to work on a Saturday when she was not originally scheduled to work. She further alleged that T.P. assigned her duties that were outside of her job description and that were not allowed in attempts to get her fired. Appellant did not, however, provide any evidence to establish that T.P.'s actions rose to the level of error or abuse on the part of the employing establishment. Mere disagreement or dislike of actions taken by a supervisor will not be compensable absent evidence establishing error or abuse.³⁰ An employee's reaction to an administrative or personnel matter is not covered by FECA, unless there is evidence that the employing establishment acted unreasonably.³¹ Because appellant has not presented sufficient evidence to establish that T.P. acted unreasonably or that the employing establishment engaged in error or abuse, she has failed to identify a compensable work factor.

Along with T.P., appellant further alleged that the postmaster retaliated against her because he did not grant her any interviews for nonsupervisory job positions. The Board has held that denials by an employing establishment of a request for a different job, promotion, or transfer are not compensable factors of employment as they do not involve the employee's ability to perform his or her regular or specially assigned work duties, but rather constitute a desire to work in a different position.³²

Appellant has also alleged harassment from various management officials. As noted above, for harassment or discrimination to give rise to a compensable disability under FECA, there must be evidence that harassment or discrimination did in fact occur. Mere perceptions of harassment or discrimination are not compensable under FECA.³³ Appellant reported several instances when the postmaster yelled and screamed at her over the telephone because her carriers returned late to the post office. She related that he made her deliver mail in 100 degree heat in retaliation and also threatened to fire her if she failed to follow instructions. Appellant further alleged that the postmaster made sure that the district manager did not receive her requests for reassignment.

The Board notes that appellant did not provide any evidence, such as witness statements, to corroborate her allegations of the postmaster's threatening and abusive behavior. M.B. provided

²⁸ *Charles D. Edwards*, 55 ECAB 258 (2004).

²⁹ *L.S.*, 58 ECAB 249 (2006).

³⁰ *Linda Edwards-Delgado*, 55 ECAB 401 (2004).

³¹ *See Alfred Arts*, 45 ECAB 530 (1994).

³² *Donald W. Bottles*, 40 ECAB 349, 353 (1988). *See Robert Breeden*, 57 ECAB 622 (2006) (an employee's dissatisfaction with being transferred constitutes frustration from not being permitted to work in a particular environment or to hold a particular position and is not compensable).

³³ *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

an affidavit which stated that she overheard the postmaster speak to appellant in a nonprofessional manner, she did not provide any other specific details which can corroborate appellant's allegations. Furthermore, while M.B. noted that the postmaster had a history of displaying abusive behavior on the job, such generalized statements are insufficient to establish a hostile work environment. Not every verbal interaction in the workplace is compensable simply because a claimant takes issue with the tone of voice used by speaker.³⁴ The Board has generally held that being addressed in a raised or harsh voice does not in and of itself constitute verbal abuse or harassment.³⁵ In the absence of evidence to show verbal abuse or harassment by the postmaster in specific conversations with appellant, she has failed to establish a compensable work factor.

Likewise, appellant also did not submit any evidence to corroborate her allegations that L.H. raised his voice and became very angry at her when the outgoing mail was late and had not made the evening dispatch truck, when appellant still had several routes out for delivery, and when appellant repeatedly corrected her name. She further asserted that she heard threats that L.H. was making preparations to fire her. Appellant also described a situation wherein L.H. lied about sending her relief carriers when she still had seven routes open on a Saturday morning. Without any evidence to support these allegations, however, the Board finds that they also do not constitute a compensable factor of employment.

Appellant also alleged harassment and discrimination from T.P. She related that in general she heard that T.P. made fun of the way she dressed. Appellant described situations when T.P. reprimanded her for not greeting employees, being too nonchalant for a customer complaint, calling and texting her at a dental appointment, and yelling loudly at her if the mail or carriers were late. To support her claims of T.P.'s harassment, appellant provided a list of mail carriers that T.P. had yelled at and explained that they feared retaliation if they gave a statement. She also provided an affidavit dated July 31, 2014 by H.A. who reported that T.P. constantly harassed, yelled, belittled, and threatened him at work in front of his peers. The Board notes, however, that H.A. described T.P.'s behavior towards himself. He did not provide any corroboration or support for the specific instances which appellant alleged that T.P. harassed her.³⁶ The Board notes that without any corroboration or verification from witnesses that harassment or discrimination did, in fact, occur appellant has not established a compensable factor of employment with respect to T.P.'s behavior.

The Board finds that the facts of the case do not support that the various specific incidents of verbal abuse or threats occurred in the performance of duty. Appellant provided no corroborating evidence or witness statement to support that any verbal interaction or written communication with appellant by L.H., the postmaster, or T.P. rose to the level of a compensable employment factor.³⁷ She has not submitted any evidence to show a persistent disturbance,

³⁴ *Michael Iovino*, Docket No. 02-0945 (issued March 9, 2003).

³⁵ *E.M.*, Docket No. 12-1238 (issued April 1, 2013).

³⁶ *See M.R.*, Docket No. 11-0980 (issued August 15, 2012).

³⁷ *See D.S.*, Docket No. 15-0411 (issued September 10, 2015); *Judy L. Kahn*, 53 ECAB 321 (2002).

torment or persecution, *i.e.*, mistreatment by employing establishment management.³⁸ Accordingly, appellant did not establish a factual basis for her claim for harassment.

As noted above, the Board finds that appellant has established a compensable employment factor with regard to her claim of increased overtime leading to overwork. Accordingly, OWCP must analyze the medical evidence to determine whether appellant sustained an emotional condition as a result of this compensable employment factor. The case will be remanded to OWCP for this purpose. After such further development as deemed necessary, OWCP should issue an appropriate decision on this claim.

CONCLUSION

The Board finds that appellant has established a compensable employment factor with regard to her claim of increased overtime leading to overwork. The Board further finds that appellant has not established any other compensable employment factors as alleged.

ORDER

IT IS HEREBY ORDERED THAT the June 27, 2016 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The case is remanded for further proceedings consistent with this opinion of the Board.³⁹

Issued: August 21, 2018
Washington, DC

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

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

³⁸ See *S.S.*, Docket No. 14-1454 (issued December 15, 2014); *Beverly R. Jones*, 55 ECAB 411 (2004).

³⁹ Colleen Duffy Kiko, Judge, participated in this decision, but was no longer a member of the Board effective December 11, 2017.