



January 25, 2016. She asserted that she underwent treatment for stress during the final years of her employment. Appellant contended that an attending physician told her that work stress was the primary cause of her cardiac condition. She noted that she first became aware of her heart condition on January 25, 2016 and first related it to factors of her federal employment on January 4, 2017.

In a January 26, 2017 letter, OWCP notified appellant of the type of additional evidence needed to establish her claim, including a detailed description of the work factors alleged to have caused or contributed to her condition, and a narrative medical report from her attending physician supporting a causal relationship between those incidents and the claimed conditions. It attached a claim development questionnaire and afforded her 30 days in which to submit such evidence.

In response, appellant submitted her January 30 and February 2 and 29, 2017 narrative statements, in which she contended that the employing establishment was aware of her stress condition before her retirement as she had been granted Family and Medical Leave Act (FMLA) leave in 2011.<sup>2</sup> She alleged that she developed an emotional condition due to being on call 24 hours a day 7 days a week, participation in daily early morning teleconferences while still at home, and short staffing during peak seasonal periods. Appellant contended that the employing establishment had removed her from her position and placed her in an improvement program, where she was subjected to surprise audits and humiliating treatment. She recalled that during the week prior to the January 25, 2016 cardiac event, she had shoveled snow and chopped wood.

An employing establishment supervisor provided a January 25, 2017 statement acknowledging that, while postmaster positions were stressful, he had not supervised appellant and was unfamiliar with the details of her situation.

Appellant also submitted medical evidence. In a June 24, 2011 FMLA certification form, Dr. Herbert J. Rudolph, an attending family practitioner, diagnosed an acute stress reaction with anxiety, insomnia, nausea, apprehension, shortness of breath, and lightheadedness. He held appellant off work from August 3 to 31, 2011 as she required rest and medication. Dr. Rudolph later held her off work through September 29, 2011.

Appellant provided hospital chart notes dated January 25 to 28, 2016 which described her evaluation in an emergency room and a specialized medical center for chest pain. She underwent a cardiac catheterization performed by Dr. Arthur Okere, an attending Board-certified cardiologist. Appellant was diagnosed with Takotsubo's cardiomyopathy. Dr. Okere provided periodic progress reports.<sup>3</sup> In a January 27, 2017 note, he explained that "Takotsubo is a stress-induced cardiomyopathy."

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<sup>2</sup> The employing establishment approved appellant's request for FMLA leave on August 11, 2011. Appellant used FMLA leave for unspecified periods beginning March 29 and May 23, 2011, August 3 to September 29, 2011, October 15 to 30, 2011, and May 22 to June 5, 2012.

<sup>3</sup> An October 3, 2016 echocardiogram showed concentric hypertrophy of the left ventricle, mild dilation of the left atrial cavity, mild mitral valve regurgitation, and trace regurgitation in the tricuspid and pulmonic valves.

By decision dated May 10, 2017, OWCP denied appellant's emotional condition claim, as she failed to submit sufficient evidence to establish fact of injury. It found that, while she made general allegations about stress and overwork, she did not specify any dates or describe any incidents which she believed caused or contributed to her condition.

### **LEGAL PRECEDENT**

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment, but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.<sup>4</sup> On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his or her frustration from not being permitted to work in a particular environment or to hold a particular position.<sup>5</sup>

Appellant has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that the condition for which she claims compensation was caused or adversely affected by employment factors.<sup>6</sup> This burden of proof includes the submission of a detailed description of the employment factors or conditions which she believes caused or adversely affected the condition or conditions for which compensation is claimed.<sup>7</sup>

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

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> See *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991); *Lillian Cutler*, 28 ECAB 125 (1976).

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

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

<sup>8</sup> See *Charles D. Edwards*, 55 ECAB 258 (2004); *Norma L. Blank*, 43 ECAB 384 (1993).

<sup>9</sup> *Lori A. Facey*, 55 ECAB217 (2004); *Norma L. Blank*, *id.*

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an emotional condition with secondary cardiomyopathy in the performance of duty.

Appellant attributed her stress condition, in part, to early morning conference calls, being on call at all times. As she did not submit a descriptive statement or corroborating evidence to establish that these incidents occurred as alleged, these alleged incidents cannot be considered factors under *Cutler*.<sup>10</sup> Similarly, appellant contended that administrative matters such as short staffing and audits also contributed to her condition, but failed to provide any factual evidence to substantiate these incidents or that they were carried out in error.<sup>11</sup> She submitted no evidence to support her allegations.

Therefore, the Board finds that there is insufficient evidence to establish that the identified incidents occurred as alleged. Appellant submitted no evidence, such as personnel records or witness statements, corroborating her version of events. OWCP, by letter dated January 26, 2017, informed her of the evidence needed to support her claim. It asked that appellant respond to a claim development questionnaire describing any employment factors or incidents alleged to have caused her emotional condition. In response, appellant provided statements with vague allegations that lacked the specificity needed to establish her allegations as factual.<sup>12</sup>

For the foregoing reasons, the Board finds that appellant has not established any compensable employment factors. Therefore, appellant has not met her burden of proof. As she did not establish a compensable employment factor, the Board need not consider the medical evidence of record.<sup>13</sup>

On appeal, appellant asserts that she sustained cardiomyopathy due to an occupational emotional condition. As explained above, she did not submit sufficient factual evidence to establish an emotional condition in the performance of duty.

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.

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<sup>10</sup> See *supra* note 5; *James E. Norris*, 52 ECAB 93 (2000).

<sup>11</sup> See *Edwards*, *supra* note 8 (administrative and personnel matters, although generally related to employment, are functions of the employing establishment rather than the regular or specially assigned work duties of the employee and are not covered under FECA unless the evidence discloses error or abuse on the part of the employing establishment).

<sup>12</sup> *L.G.*, Docket No. 17-0160 (issued May 1, 2017).

<sup>13</sup> See *Katherine A. Berg*, 54 ECAB 262 (2002).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish an emotional condition with secondary cardiomyopathy in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 10, 2017 is affirmed.

Issued: February 1, 2018  
Washington, DC

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

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

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