

and loss of hope due to an issue concerning his parking space at work. He asserted that his illness began in 2009 and continued until he was overwhelmed on March 8, 2017. Appellant indicated that he had filed an Equal Employment Opportunity (EEO) complaint and “won” a parking space. However, others parked in his space and he was unable to use it. Appellant stated that the stress of the parking situation was overwhelming and that on March 8, 2017 he went to the dispensary and was diagnosed with stress. He stopped work on March 10, 2017 and returned to work on March 16, 2017. Appellant submitted a copy of an April 30, 2007 disabled person’s license plate affidavit and his position description.

In a September 23, 2002 note, Dr. Lemmy Effa, an internist, noted that appellant had chronic low back and neck pain. Appellant was instructed to avoid prolonged standing.

In a November 25, 2008 note, a physician, with an illegible signature, indicated that appellant needed permanent handicap parking.

By development letter dated April 7, 2017, OWCP advised appellant that the evidence submitted was insufficient to establish his emotional condition claim. It requested that he respond to an attached questionnaire in order to substantiate the factual elements of his claim and submit medical evidence from a physician to establish a diagnosed condition causally related to his employment. Appellant was afforded 30 days to submit this evidence. A similar letter was sent to the employing establishment.

In a March 21, 2017 statement, appellant related that individuals in his management chain and others conspired to revoke his reserved handicap parking space, which he had for eight years. He stated that he was awarded the handicap parking space closest to his work area, outside of door 6D, which was the second parking space on the right of the steps leading down to the street. Appellant stated that there was a constant flow of people who parked in his space more often than he was able to. While security officers ticketed people for parking in his space, he alleged that he was also ticketed because he had to park behind a dumpster if his space was not available. Appellant indicated that the situation became stressful over the years. He reached his breaking point and felt that he was unjustly targeted and attacked when management decided to take the parking space away. Appellant alleged that someone with no medical knowledge of his condition or endurance made a judgment call and revoked his permanent handicap parking space. He alleged stress from his reserved handicapped space being unjustly taken away after eight years, the tickets he received over the years, the lack of handicapped accessible places, and the stress of going to the base dispensary and his private physician.

Appellant submitted a copy of his handicap parking permit, which was valid until March 10, 2021, and e-mail correspondence, which pertained to his EEO claim and parking/speeding tickets. A copy of a prescription and e-mail correspondence pertaining to sick leave were received along with return to work notes dated January 7, 2009, November 28 and December 5, 2016, and March 8 and 15, 2017 from various physicians.

A March 8, 2017 incident report form indicated that appellant was diagnosed with stress and was able to return to duty. The reported incident was a reserved parking space being taken away.

An April 17, 2017 report from Michele Scarborough, FNP-C, a certified nurse practitioner, reported that appellant stated that he had not been to work due to work-related stress. Appellant indicated that he was parking in a reserved spot and then someone began taking that spot. He then parked in an area he was not supposed to park and received a ticket. Appellant went through different channels to resolve the issue with limited resolution. When he came to work and the reserved spots were gone, he became angry, anxious, began crying, and had physical symptoms including uncontrolled chest pain. An assessment of anxiety and depression was provided.

OWCP denied appellant's emotional condition claim by decision dated May 22, 2017. It determined that he had failed to provide a factual basis for his claim because he had not responded to OWCP's factual development questionnaire. OWCP also found that appellant had failed to submit sufficient medical evidence to establish a diagnosed condition causally related to the alleged work-related incidents.

LEGAL PRECEDENT

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

If a claimant does implicate a factor of employment, OWCP should then determine whether the evidence of record substantiates that factor.³ 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.⁴

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*,⁵ 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.⁶ 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 emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature

² *Leslie C. Moore*, 52 ECAB 132 (2000).

³ *Dennis J. Balogh*, 52 ECAB 232 (2001).

⁴ *Id.*

⁵ 28 ECAB 125 (1976).

⁶ *See Robert W. Johns*, 51 ECAB 137 (1999).

of the work.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

ANALYSIS

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

Appellant has not attributed his emotional condition to the performance of his regular work duties or to any special work requirement arising from his employment duties under *Cutler*.¹¹ Rather, his claim pertains to his reserved/handicapped parking space, which he alleged that other drivers parked in. Appellant alleged that he received tickets for parking illegally when others were in his reserved/handicapped parking space. He also alleged that management decided to revoke his reserved/handicap parking space.

Administrative and personnel matters, although generally related to employee's employment, are administrative functions of the employing establishment rather than the regular or specially assigned work duties of the employee and are not covered under FECA.¹² Where the evidence demonstrates that the employing establishment either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.¹³ A claimant must support his allegations with probative and reliable evidence. Personal perceptions alone are insufficient to establish an employment-related emotional condition.¹⁴

In a factually similar case wherein a claimant alleged a general pattern of harassment and discrimination in denying her right to assigned handicap parking, the Board held that a claimant must establish a factual basis for her allegations with probative and reliable evidence.¹⁵ In the present case, the evidence submitted is insufficient to establish that the employment incidents occurred as alleged. Appellant submitted no evidence to establish that his reserved/handicapped

⁷ *Lillian Cutler*, *supra* note 5.

⁸ *J.F.*, 59 ECAB 331 (2008).

⁹ *M.D.*, 59 ECAB 211 (2007).

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

¹¹ *See James E. Norris*, 52 ECAB 93 (2000).

¹² *Charles D. Edwards*, 55 ECAB 258 (2004).

¹³ *Kim Nguyen*, 53 ECAB 127 (2001). *See Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 566 (1991).

¹⁴ *Supra* note 10.

¹⁵ *E.H.*, Docket No. 11-0798 (issued March 22, 2012).

parking space was being used by others to the extent and duration alleged, to harass or discriminate against him, or that these acts were condoned by the employing establishment.¹⁶ He also did not submit evidence to support that his reserved/handicap parking space was revoked in error by the employing establishment.¹⁷ OWCP, by letter dated April 7, 2017, informed appellant of the evidence needed to support his claim. It asked that he respond to a questionnaire describing how the claimed incident occurred and how his emotional condition developed. Appellant did not respond with the information requested in the April 7, 2017 development letter. He also did not submit evidence to support his allegations pertaining to his reserved/handicap parking space.

For the foregoing reasons, the Board finds that appellant has not established that the claimed incidents occurred as alleged.¹⁸ Therefore, appellant has not met his burden of proof to establish an emotional condition in the performance of duty. As he has failed to meet his burden of proof to establish a compensable employment factor, the Board need not consider the medical evidence of record.¹⁹

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 has not met his burden of proof to establish an emotional condition in the performance of duty.

¹⁶ *See id.*

¹⁷ *Supra* note 13.

¹⁸ *See L.G.*, Docket No. 17-0160 (issued May 1, 2017).

¹⁹ *See Katherine A. Berg*, 54 ECAB 262 (2002).

ORDER

IT IS HEREBY ORDERED THAT the May 22, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 5, 2018
Washington, DC

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

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

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