

**United States Department of Labor  
Employees' Compensation Appeals Board**

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M.A., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
Chino, CA, Employer

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**Docket No. 19-1017  
Issued: December 4, 2019**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

JANICE B. ASKIN, Judge

ALEC J. KOROMILAS, Alternate Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On April 9, 2019 appellant filed a timely appeal from a March 5, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

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

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **FACTUAL HISTORY**

On August 7, 2018 appellant, then a 50-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained an emotional condition due to factors of her federal employment. She first became aware that her stress, anxiety, and depression were caused or aggravated by her federal employment on July 10, 2018. Appellant stopped work on August 10, 2018 and has not returned.

In a July 30, 2018 certification, Dr. Laura West, a Board-certified psychiatrist, indicated that appellant would be unable to perform her job functions from July 17 through 30, 2018. She noted that appellant may require follow-up care. Dr. West diagnosed adjustment disorder with mixed anxiety and depressed mood. She also noted “occupational problems or work circumstances.”

In a development letter dated September 6, 2018, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested that she respond to the attached questionnaire in order to substantiate the factual elements of her claim and provide additional medical evidence to establish that she sustained a diagnosed condition causally related to her federal employment. OWCP afforded appellant 30 days to submit the necessary evidence.

In an October 3, 2018 statement, appellant recounted that she was having anxiety and panic attacks along with depression. She indicated that since May 1, 2018, the postmaster tried to take away her route, and changed her pay codes so that she received less pay and had been yelling at her in front of her peers since May 1, 2018. Appellant noted that she had filed an Equal Employment Opportunity (EEO) complaint.

OWCP received a CD ROM of appellant’s medical records; and work status reports from Kaiser Permanente dated July 10, 16, 26, 31, August 7, 14, and 21, 2018, in which Dr. West diagnosed panic disorder and single episode moderate major depressive disorder.

In a July 2, 2018 Postal Service Information for Pre-Complaint Counseling (PS Form 2564-A), appellant indicated that on June 15, 2018 the postmaster called her in to investigate whether she was back to full duty from a prior employment injury. She noted she responded that she was on light duty due to an on-the-job injury and, unbeknownst to her, an OWCP physician had placed her back to full duty. Appellant indicated that she wanted the matter to be resolved by keeping her route and receiving her correct pay.

By decision dated March 5, 2019, OWCP denied appellant’s emotional condition claim. It determined that she had failed to establish a factual basis for her claim because the evidence submitted was insufficient to substantiate that the incidents occurred as alleged. OWCP also found that appellant had failed to submit sufficient medical evidence to establish a diagnosed condition causally related to factors of her federal employment. It concluded, therefore, that the requirements had not been met to establish that she sustained an injury as defined by FECA.

## **LEGAL PRECEDENT**

To establish an emotional condition in the performance of duty, appellant must submit the following: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to the condition; (2) medical evidence establishing that he or she has an emotional

or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the emotional condition is causally related to the identified compensable employment factors.<sup>3</sup>

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*,<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

Allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim.<sup>7</sup> Where the claimant alleges compensable factors of employment, he or she must substantiate such allegations with probative and reliable evidence.<sup>8</sup> Personal perceptions alone are insufficient to establish an employment-related emotional condition, and disability is not covered where it results from such factors as an employee's fear of a reduction-in-force, or frustration from not being permitted to work in a particular environment, or to hold a particular position.<sup>9</sup>

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.<sup>10</sup> 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.<sup>11</sup>

### ANALYSIS

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

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<sup>3</sup> C.V., Docket No. 18-0580 (issued September 17, 2018).

<sup>4</sup> 28 ECAB 125 (1976).

<sup>5</sup> See *G.M.*, Docket No. 17-1469 (issued April 2, 2018); *Robert W. Johns*, 51 ECAB 137 (1999).

<sup>6</sup> *Supra* note 4.

<sup>7</sup> A.C., Docket No. 18-0507 (issued November 26, 2018).

<sup>8</sup> *G.R.*, Docket No. 18-0893 (issued November 21, 2018).

<sup>9</sup> See A.C., *supra* note 7.

<sup>10</sup> C.V., *supra* note 3.

<sup>11</sup> *Id.*

The Board notes that appellant's allegations do not pertain to her regular or specially assigned duties under *Cutler*.<sup>12</sup> Rather, she has alleged error and abuse in administrative matters by the employing establishment and verbal abuse by her postmaster.

Appellant attributed her emotional condition to the postmaster allegedly changing her route and changing her pay code. As a general rule, a claimant's reaction to administrative or personnel matters falls outside the scope of FECA.<sup>13</sup> The Board has long held that disputes regarding the assignment of work<sup>14</sup> and matters relating to pay<sup>15</sup> are administrative functions of the employing establishment and, absent error or abuse, are not compensable.<sup>16</sup> Absent evidence establishing error or abuse, a claimant's disagreement or dislike of such a managerial action is not a compensable factor of employment.<sup>17</sup> In this case, appellant, however, did not provide specific details and corroborating evidence to support her multiple allegations. The July 2, 2018 Postal Service Information for Pre-Complaint Counseling (PS Form 2564-A), the only evidence submitted by appellant, indicated that she wanted to retain her route and have her pay codes corrected. This, however, does not provide any details to substantiate appellant's allegations of when, if or why the postmaster tried to change her route or change her pay codes. As noted, appellant bears the burden of proof to establish that she developed an emotional condition as a result of a compensable employment factor. This burden includes the submission of detailed factual evidence and explanation concerning the incidents or assignments she believes constituted a compensable employment factor.<sup>18</sup> Appellant has not submitted sufficient evidence to establish these allegations as compensable factors.<sup>19</sup>

In this case, appellant did not submit sufficient evidence to corroborate her allegations that the postmaster yelled at her and she did not provide any details regarding the circumstances surrounding the alleged yelling.

Accordingly, the Board finds that appellant's statements lack sufficient details and specific examples to substantiate a factual basis for her claim by probative and reliable evidence.<sup>20</sup> Thus appellant has not established a compensable employment factor under FECA and, therefore, has not met her burden of proof to establish that she sustained an emotional condition in the

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<sup>12</sup> *Supra* note 4.

<sup>13</sup> *F.C.*, Docket No. 18-0625 (issued November 15, 2018).

<sup>14</sup> *See M.C.*, Docket No. 18-0585 (issued February 13, 2019).

<sup>15</sup> *See, e.g., W.S.*, Docket No. 12-0992 (issued February 7, 2013); *Frederick D. Richardson*, 45 ECAB 454 (1994).

<sup>16</sup> *See G.G.*, Docket No. 18-0432 (issued February 12, 2019).

<sup>17</sup> *See E.S.*, Docket No. 18-1493 (issued March 6, 2019).

<sup>18</sup> *See E.M.*, Docket No. 19-0156 (issued May 23, 2019); *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

<sup>19</sup> *See, e.g., E.M., id.*; *George Tseko*, 40 ECAB 948 (1989).

<sup>20</sup> *Cf. O.G.*, Docket No. 18-0359 (issued August 7, 2019).

performance of duty. As she has not established any compensable employment factors, the Board need not consider the medical evidence of record.<sup>21</sup>

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 her burden of proof to establish an emotional condition in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 5, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 4, 2019  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>21</sup> See *C.V.*, *supra* note 3.