

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

F.R., Appellant)	
)	
and)	
)	Docket No. 20-0793
DEPARTMENT OF VETERANS AFFAIRS, VA)	Issued: December 13, 2022
CARIBBEAN HEALTHCARE SYSTEM,)	
SAN JUAN VA MEDICAL CENTER,)	
San Juan, PR, Employer)	
)	

Appearances:
Francisco Reyes-Caparrós, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 20, 2020 appellant, through counsel, filed a timely appeal from a December 17, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

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 November 7, 2018 appellant, then a 58-year-old information technology (IT) specialist (customer support), filed an occupational disease claim (Form CA-2) alleging that he developed anxiety, insomnia, memory and concentration problems, and anhedonia due to factors of his federal employment. He noted that he first became aware of his conditions and their relationship to his federal employment on August 23, 2017. Appellant did not stop work.

In an October 2, 2018 narrative statement, appellant described his IT specialist duties. He asserted that he suffered from anxiety, stress, severe insomnia, loss of concentration, nervousness, and panic due to being constantly subjected to discrimination, hostility, reprisal, and retaliation by L.M., his supervisor, and M.N., Chief Information Officer, since 2015. Appellant noted that he was off work in August 2017 due to his mental condition and hospitalized in September 2017 due to a deterioration of his condition. He returned to work in October 2017 and continued to receive psychiatric treatment and take medication. Appellant alleged that on September 10, 2018 he had another nervous breakdown and also had an anxiety attack. On that day, A.R., appellant's coworker, was driving with appellant riding as a passenger in a car to the Ponce community-based outpatient clinic. L.M., appellant's and A.R.'s supervisor, called A.R. and requested that A.R. return to the employing establishment to pick up satellite telephones. Appellant contended that the road was dangerous, and this was the second time that L.M. had done this to him. He began to shout and tremble and asked A.R. to stop the car. Appellant got out of the car and walked along the highway and his hands began to tremble. After he and A.R. returned to the employing establishment and retrieved the satellite telephones, he was unable to continue the trip to the Ponce clinic due to a deterioration of his emotional condition. Appellant was evaluated by Dr. Angel Green, an employing establishment occupational medicine specialist, who referred him to the employing establishment's Employee Assistance Program. He was then referred to Dr. Karen Caez, a clinical psychologist, who placed him off work from September 17 through 24, 2018.

OWCP, by development letter dated November 13, 2018, advised appellant of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. In a separate development letter of even date, it requested that the employing establishment provide additional information regarding appellant's alleged injury, including comments from a knowledgeable supervisor regarding the accuracy of his allegations and witness statements from employees with additional information. OWCP afforded both parties 30 days to submit the requested evidence.

Appellant submitted medical evidence.

In an undated supervisor statement, L.M. responded to OWCP's development letter. He acknowledged that, appellant's description of his work duties was accurate but, contended that there was no evidence to support his claim for an employment-related emotional condition. L.M. denied appellant's allegation that he was subjected to discrimination, hostility, and reprisal by the

employing establishment. He contended that attached documentation established that management was more than willing to discuss appellant's alleged claims, but appellant refused to meet with management. Regarding the September 10, 2018 incident, L.M. noted that appellant was part of a two-man travel team that was going to the Ponce clinic to deliver satellite telephones. He explained that on the prior day, appellant was informed about his assignment, but he failed to inform A.R. about their assignment. L.M. further explained that he asked A.R. to return to the employing establishment because there was a threat of another approaching hurricane, and the telephones were vital emergency communications equipment required to be onsite. He maintained that A.R. was not told to hurry or rush back to the employing establishment. L.M. contended that appellant's extreme overreaction to his request was a purposeful and willful attempt to blow a simple situation out of proportion to further support his unsubstantiated and false claims of discrimination, hostility, reprisal, and retaliation, and document his occupational illness claim.

L.M. submitted an official copy of appellant's IT specialist position. He also submitted e-mails between himself and appellant dated September 11, 13, 15, and 17, 2018. Appellant claimed that L.M. retaliated against him for his prior Equal Employment Opportunity Commission (EEOC) cases. L.M. denied appellant's allegation that his request that appellant and A.R. transport satellite telephones to the Ponce clinic on September 10, 2018 was in retaliation for his prior EEOC claims. He also denied placing him in a dangerous situation. L.M. again explained the circumstances and importance of his request. He also explained the process for filing a workers' compensation claim to appellant and offered to assist him.

OWCP subsequently received additional evidence. In an August 23, 2017 employing establishment incident report, L.M. related that appellant alleged he was upset and believed that he was in danger when L.M. called A.R. and requested that A.R. and appellant return to the employing establishment to pick up satellite telephones as part of a contingency plan due to an approaching tropical storm.

An employing establishment report of contact (ROC) dated September 11, 2018 from A.R. corroborated appellant's account of the September 10, 2018 incident and his emotional reaction to the incident. A.R. remained calm during the incident explaining that relocation on a moment's notice while on travel was part of the job.

In an additional employing establishment ROC of even date and an employing establishment incident report dated November 6, 2018, L.M. reiterated his account of the September 10, 2018 incident.

OWCP continued to receive medical evidence.

By letter dated April 1, 2019, OWCP requested that appellant provide comments regarding the employing establishment's response to his emotional condition claim.

In response letters dated April 15 and 16, 2019, appellant noted that he had been under psychological and psychiatric treatment since 2010 due to being subjected to discrimination and retaliatory practices by his supervisors. He related that a judge's decision determined that he was subjected to discrimination based on race and awarded damages as a result of this action. Appellant contended that since the issuance of that decision, he continued to be subjected to

discriminatory practices and a hostile work environment. He was watched all the time, over-supervised, given a task that set him up for failure, retaliated against for an investigation of his EEOC complaints, not provided with the necessary tools to perform an assignment, and received a letter of reprimand.

Appellant submitted additional medical evidence.

OWCP subsequently received an April 25, 2019 letter from L.M. who continued to deny appellant's allegations of racial discrimination and retaliation. He noted that he is the same race as appellant, the employing establishment strictly prohibited discrimination, retaliation, and creation of a hostile work environment, and he had completed yearly training on these topics on October 17 and November 19, 2018. L.M. contended that he always treated appellant and other employees with respect and courtesy. He also denied appellant's allegations of being watched all the time, over-supervised, set up for failure, and assigned work without being provided the tools to complete the assignment. L.M. again related that appellant refused his offer to answer any questions or concerns regarding his work assignments and overall work performance. He acknowledged that appellant was issued a letter of reprimand but, noted that it was for failure to follow instructions. L.M. indicated that an outside independent team investigated appellant's complaints of harassment, retaliation, and a hostile work environment by the employing establishment and determined that they were unfounded. The investigation found a healthy work environment, specifically praised management's open-door policy, and revealed that the employing establishment staff felt that L.M. actively listened to their concerns and questions regarding daily operations or an assigned task.

L.M. submitted e-mails dated August 30, 2018 between himself and appellant regarding appellant's refusal to be assigned to the travel team because overtime work was not available. He noted that the travel team always worked overtime because it visited all clinics and some of the clinics were two hours away. He expressed his willingness to negotiate with appellant to be on the travel team and to modify his assignments. L.M. assured him that his door was always open to discuss these matters. He maintained that the travel team assignment was related to appellant's IT specialist duties and to his EEOC cases or allegation of reprisal.

In a December 28, 2018 e-mail to J.A., a team leader, appellant requested that he not be placed on the travel team during the January 2019 rotation because he had several medical appointments scheduled that month. In an e-mail of even date, J.A. responded that he would forward appellant's request to L.M.

OWCP, by decision dated May 8, 2019, denied appellant's emotional condition claim, finding that it did not arise "during the course of employment and within the scope of compensable work factors as defined by the FECA."

On May 31, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Appellant subsequently submitted documents related to his EEOC complaints. In a July 28, 2010 brief, appellant, through his then-counsel, reiterated his allegation of discrimination based on race, which created a hostile work environment. He also alleged disparate treatment

when P.C., a coworker, was given a higher in-grade step increase and authority to make supervisory decisions and E.M., a coworker, was allowed to serve as acting leader even though he had seniority; C.G., a coworker, was told that appellant was lazy and incapable of performing his position and all the employees in appellant's section perceived him as slow, lazy, and unprepared, and did not want to work with him; R.M., a coworker, related that M.N. shouted at appellant and told him to be quiet; appellant's requests to travel to clinics and to change his schedule were denied while other employees' requests were granted; and he received lower performance rating for the period 2006 through 2007.

In a December 8, 2010 final order and rescission of final agency decision, the employing establishment rescinded its July 7, 2010 decision, which found that appellant had failed to establish that he was harassed based on color, race, and protected EEO activity, which created a hostile work environment. The employing establishment explained that it had accepted an EEOC decision in its entirety,³ which determined that appellant was discriminated against and harassed due to derogatory comments made about his skin color, which created a hostile work environment, and found that appellant was entitled to \$40,000.00 in compensatory damages.

In a March 15, 2017 employing establishment complaint of employment discrimination, appellant alleged that on February 6, 2017 he was divested from several duties by his supervisor, and this action was supported by his second-line supervisors. In an April 2, 2019 employing establishment complaint of employment discrimination, appellant contested a proposed admonishment by the employing establishment.

In a July 20, 2018 letter, the employing establishment provided appellant's current counsel a copy of its investigative file related to appellant's January 27, 2018 EEOC complaint.

In an undated partial investigative report, the employing establishment indicated that from January 14 through February 4, 2019 it had performed a desk investigation of appellant's November 28, 2018 formal EEOC complaint of harassment based on race and reprisal, which created a hostile work environment. Appellant alleged that on July 6, 2018 he was excluded from overtime work. On August 30, 2018 his request for a change in rotation was denied. On September 11, 2018 appellant was instructed to return to the medical center in San Juan to pick up satellite telephones. His request for sick leave was denied twice on November 8, 2018. On December 6, 2018 appellant's overtime work was canceled. On December 7, 2018 he was questioned about false allegations lodged against him.

By letter dated March 22, 2019, the employing establishment informed appellant that it was closing informal counseling related to his complaints alleging that on February 8, 2019 the employing establishment issued a letter of admonishment to him for failing to complete an assigned task and it harassed him by circulating an e-mail that inferred that a coworker had completed his assigned task.

Appellant continued to submit medical evidence.

³ The Board notes that the EEOC decision referenced by the employing establishment in its December 8, 2010 rescission decision is not contained in the caserecord.

During an October 8, 2019 telephonic hearing, appellant's current counsel referenced the EEOC decision finding that appellant was discriminated against by the employing establishment and contended that the decision established a causal relationship between appellant's emotional condition and factors of his federal employment.

Following the October 8, 2019 telephonic hearing, OWCP received additional evidence.

E-mails dated June 12, 2017 through May 23, 2019 between appellant, L.M., M.N., J.W., an employing establishment employee, and S.T., a manager, that addressed management's expectations for appellant's work performance and the monitoring of his work, appellant's continued allegations of retaliation and discrimination due to the filing of his EEOC complaints, and the issuance of the February 8, 2019 letter of proposed admonishment and March 20, 2019 proposed admonishment decision, denial of appellant's requests for re-training and leave on May 22, 2019 and placing him on an absent without leave (AWOL) status on that date by the employing establishment.

A.V., in a September 26, 2018 report of contact, noted that on that date while driving with appellant as a passenger to a site visit at Ceiba, appellant totally lost control and yelled at him after he asked appellant if he had a service ticket for Ceiba in his queue. Appellant yelled that A.V. was not his supervisor and that he could not tell him what to do. A.V. became nervous and threatened by appellant who started to move his hands all over the front compartment of the vehicle. He respectfully and politely told appellant that he was going to return to the employing establishment if he continued his disruptive behavior. Appellant calmed down and upon their arrival at Ceiba, A.V. asked appellant not to yell at him anymore as it created a hostile work environment.

Minutes from a November 7, 2018 meeting between L.M., appellant, and E.V., a union representative, addressed appellant's reports of contact involving his request to be removed from the travel team because he was on sick leave and the completion of his assigned task by a coworker, and A.V.'s report of contact alleging that he felt threatened by appellant while traveling to a remote clinic.

In a March 19, 2019 decision, the employing establishment finalized its February 5, 2019 proposal to admonish appellant for failing to follow instructions.

In an undated complaint of employment discrimination, appellant continued to allege that he was subjected to harassment and a hostile work environment by L.M. and M.N. L.M. charged him with being AWOL on May 22, 2019. M.N. denied appellant's request for sick leave for that date. Appellant contended that management refused to listen to his explanation for his absence from work.

In an October 10, 2019 e-mail, R.P., appellant's coworker, related that when he started working at the employing establishment in 2014, he heard unkind things about appellant from management. He noted that unlike other employees, appellant was monitored several times per day by management when he was assigned to work at the help desk and on a travel assignment, and appellant was placed on AWOL status when his location was unaccounted for during his assignments. R.P. further noted that appellant's request to cross-train was denied by management.

OWCP also received additional medical evidence.

By decision dated December 17, 2019, an OWCP hearing representative affirmed the May 8, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim,⁵ including that he or she sustained an injury in the performance of duty, and that any specific condition or disability from work for which he or she claims compensation is causally related to that employment injury.⁶ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁷

To establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the diagnosed emotional condition.⁸

Workers' compensation law does not apply to each and every injury or illness that is somehow related to a claimant's employment. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the purview of workers' compensation. When disability results from an emotional reaction to regular or specially assigned work duties or a requirement imposed by the employment, the disability is deemed compensable.⁹ However, disability is not compensable when it results from factors such 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.¹⁰

⁴ *Supra* note 2.

⁵ *S.S.*, Docket No. 19-1021 (issued April 21, 2021); *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁶ *A.M.*, Docket No. 21-0420 (issued August 26, 2021); *S.S., id.*; *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ 20 C.F.R. § 10.115; *A.M., id.*; *R.S.*, Docket No. 20-1307 (issued June 29, 2012); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *Michael E. Smith*, 50 ECAB 313 (1999).

⁸ *See S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁹ *A.C.*, Docket No. 18-0507 (issued November 26, 2018); *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

¹⁰ *Lillian Cutler, id.*

An employee's emotional reaction to administrative or personnel matters generally falls outside of FECA's scope.¹¹ Although related to the employment, administrative and personnel matters are functions of the employer rather than the regular or specially assigned duties of the employee.¹² However, to the extent 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

For harassment or discrimination to give rise to a compensable disability under FECA, there must be probative and reliable evidence that harassment or discrimination did in fact occur.¹⁴ Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.¹⁵

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 compensable factors of employment and may not be considered.¹⁶ 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.¹⁷ If a compensable factor of employment is substantiated, OWCP must base its decision on an analysis of the medical evidence which has been submitted.¹⁸

ANALYSIS

The Board finds that this case is not in posture for decision.

Appellant has attributed his emotional condition in part to *Cutler*¹⁹ factors. In this regard, he alleged that he had not received the necessary tools, including training, to successfully perform his assigned work duties. The Board has held that an employee's emotional reaction to being made

¹¹ See *G.R.*, Docket No. 18-0893 (issued November 21, 2018); *Andrew J. Sheppard*, 53 ECAB 170-71 (2001), 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

¹² *David C. Lindsey, Jr.*, 56 ECAB 263, 268 (2005); *McEuen*, *id.*

¹³ *Id.*

¹⁴ *T.G.*, Docket No. 19-0071 (issued May 28, 2019); *Marlon Vera*, 54 ECAB 834 (2003).

¹⁵ *Id.*; see also *Kim Nguyen*, 53 ECAB 127 (2001).

¹⁶ *Dennis J. Balogh*, 52 ECAB 232 (2001).

¹⁷ *Charles E. McAndrews*, 55 ECAB 711 (2004).

¹⁸ *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

¹⁹ *Supra* note 9.

to perform duties without adequate training is compensable.²⁰ While R.P. related that appellant's request to cross-train was denied by management, he did not indicate that he had any knowledge of appellant's difficulties with performing his assigned work duties.²¹ LM. maintained that he had an open-door policy that allowed employees to ask him questions and discuss their concerns regarding daily operations and their work assignments, which was confirmed by an investigation of appellant's complaints of harassment, retaliation, and a hostile work environment by an outside independent team. He noted that appellant refused his offer of assistance. As such, appellant has failed to meet his burden of proof to establish a compensable factor of employment under *Cutler*.²²

Appellant's allegations regarding work assignments, modification of work schedule, and monitoring of work,²³ handling of his EEO complaints²⁴ and workers' compensation claim,²⁵ and leave requests and attendance matters,²⁶ the issuance of an admonishment letter,²⁷ workplace investigations,²⁸ and performance appraisals²⁹ relate to administrative or personnel management actions. Administrative and personnel matters, although generally related to employment, are administrative functions of the employer rather than the regular or specially-assigned work duties of the employee. For an administrative or personnel matter to be considered a compensable factor of employment, the evidence must establish error or abuse on the part of the employer.³⁰ While appellant submitted e-mails that, concerned some of these administrative matters, this evidence did not demonstrate that L.M. or other employing management officials committed error or abuse. He has not established that the employing establishment erred or was abusive in these

²⁰ *M.S.*, Docket No. 19-1589 (issued October 7, 2020); *D.T.*, Docket No. 19-1270 (issued February 4, 2020); *S.S.*, Docket No. 18-1519 (issued July 17, 2019); *C.T.*, Docket No. 09-1557 (issued August 12, 2010); *Donna J. Dibernardo*, 47 ECAB 700 (1996).

²¹ *M.S.*, *id.*

²² *Supra* note 9.

²³ *M.B.*, Docket No. 20-1407 (issued May 25, 2022); *R.D.*, Docket No. 19-0877 (issued September 8, 2020); *S.B.*, Docket No. 18-1113 (issued February 21, 2019); *V.M.*, Docket No. 15-1080 (issued May 11, 2017); *Gary N. Fiocca*, Docket No. 05-1209 (issued October 18, 2005); *Donney T. Drennon-Gala*, 56 ECAB 469 (2005).

²⁴ *M.S.*, *supra* note 20; *B.O.*, Docket No. 17-1986 (issued January 18, 2019); *James E. Norris*, 52 ECAB 93 (2000).

²⁵ *K.W.*, Docket No. 20-0832 (issued June 21, 2022); *M.B.*, *supra* note 23; *B.Y.*, Docket No. 17-1822 (issued January 18, 2019).

²⁶ *M.C.*, Docket No. 20-1051 (issued May 6, 2022); *F.W.*, Docket No. 19-0107 (issued June 10, 2020); *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *C.T.*, Docket No. 08-2160 (issued May 7, 2009).

²⁷ *M.C.*, *id.*; *D.W.*, Docket No. 17-1438 (issued August 14, 2018); *K.G.*, Docket No. 10-1426 (issued April 13, 2011); *Robert Breeden*, 57 ECAB 622 (2006).

²⁸ *M.B.*, *supra* note 23; *J.T.*, Docket No. 20-0390 (issued April 2, 2021).

²⁹ *M.C.*, *supra* note 26; *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *D.I.*, Docket No. 19-0534 (issued November 7, 2019).

³⁰ *Thomas D. McEuen*, *supra* note 11.

administrative matters. L.M. noted that he was willing to negotiate with appellant and modify his assignments in response to appellant's refusal to be assigned to the travel team. As noted, he had an open-door policy for employees to ask questions and discuss concerns regarding their work assignments and appellant refused his assistance. Further, L.M. noted that appellant's reason for refusing to be assigned to the travel team, unavailability of overtime work, was unfounded as the travel team always worked overtime. He explained the process for filing a workers' compensation claim to appellant and offered him assistance. Based on L.M.'s statements, the Board finds that appellant has not substantiated error or abuse committed by the employing establishment in the above-noted matters and, therefore, he has not established a compensable employment factor.

Appellant also alleged that he was harassed, discriminated against, and subjected to reprisals for filing an EEO complaint by L.M., other employing management officials, and his coworkers, which created a hostile work environment. To the extent that incidents alleged as constituting harassment or discrimination by a manager are established as occurring and arising from appellant's performance of his regular duties, these could constitute employment factors.³¹ However, for harassment to give rise to a compensable disability under FECA, there must be evidence that harassment did occur as alleged. Mere perceptions of harassment are not compensable under FECA.³² There is, however, evidence with respect to appellant's claim of harassment, discrimination, and hostile work environment regarding the actions of the employing establishment. Although the July 7, 2010 EEOC decision is not contained in the case record, the employing establishment, in its December 8, 2010 final rescission decision, noted and accepted that the EEOC decision included a finding of harassment. OWCP did not acknowledge the finding by the administrative judge or otherwise make a finding as to this evidence. It is well established that, while the findings of other federal agencies are not dispositive with regard to questions arising under FECA, such evidence may be given weight by OWCP and the Board.³³

The Board will remand the case to OWCP to obtain a complete copy of the July 7, 2010 EEOC decision and any other relevant evidence regarding appellant's allegations of harassment, discrimination, and reprisals. After such further development as OWCP deems necessary, it shall issue a *de novo* decision on appellant's emotional condition claim.

CONCLUSION

The Board finds that this case is not in posture for decision.

³¹ *W.F.*, Docket No. 18-1526 (issued November 26, 2019); *F.C.*, Docket No. 18-0625 (issued November 15, 2018); *Kathleen D. Walker*, 42 ECAB 603 (1991).

³² *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). *See also M.G.*, Docket No. 16-1453 (issued May 12, 2017) (vague or general allegations of perceived harassment, a buse, or difficulty arising in the employment are insufficient to give rise to compensability under FECA).

³³ *See J.S.*, Docket No. 08-2072 (issued April 20, 2009); *Pamela D. Casey*, 57 ECAB 260 (2005); *Michael A. Deas*, 53 ECAB 208 (2001).

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 13, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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