United States Department of Labor
Employees' Compensation Appeals Board

M.C., Appellant	)	
	)	**Docket No. 20-1051**
and	)	**Issued: May 6, 2022**
	)	
DEPARTMENT OF LABOR, OFFICE OF SAFETY & HEALTH ADMINISTRATION, Boston, MA, Employer	)	

Appearances:
Appellant, pro se
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 April 20, 2020 appellant filed a timely appeal from a March 18, 2020[1] merit decision of the Office of Workers' Compensation Programs (OWCP).[2] Pursuant to the Federal Employees'

[1] Appellant's AB-1 form notes that he is appealing from purported OWCP decisions dated November 3, 2017 and April 20, 2020. However, the March 18, 2020 decision is the only final adverse decision within the Board's jurisdiction. 20 C.F.R. § 501.3.

[2] Appellant timely requested oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of his oral argument request, appellant asserted that he would like the opportunity to address any counterarguments that may be presented by OWCP, and to explain how debilitating and damaging the process has been. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

Compensation Act[3] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

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 February 14, 2017 appellant, then a 38-year-old whistleblower investigator, filed an occupational disease claim (Form CA-2) alleging that he was medically unable to work as a result of waiting for a response regarding his transfer request and supervisory harassment. The harassment included ignoring his requests for reasonable accommodation, being told that mentally disabled people did not deserve service animals, being issued a reprimand letter and performance marks based on lies and fraudulent policies and being forced to work while sick. On the reverse side of the claim form, appellant's supervisor, M.M., indicated that appellant stopped work on April 8, 2015.

Appellant subsequently submitted a March 3, 2017 narrative statement in which he indicated that he was removed from employment at the employing establishment due to a medical inability to perform his job. He listed his former supervisors at the employing establishment, which included M.M., P.G., and J.E. Appellant requested wage-loss compensation for his medical expenses and emotional distress.

A September 10, 2015 decision on a proposed removal from employment issued by the employing establishment advised appellant that he would be separated from his investigator position, effective October 3, 2015, based on his medical inability to perform the duties of his position. The decision indicated that his healthcare provider opined that there was no foreseeable end to his inability for duty due to medical reasons. The employing establishment noted that appellant did not contest his removal also based on his healthcare provider's opinion.

OWCP, in a development letter dated March 15, 2017, informed appellant of the deficiencies of his claim. It requested that he submit additional factual and medical evidence and provided a questionnaire for his completion. OWCP afforded appellant 30 days to provide the requested information.

In an April 14, 2017 letter, appellant contended that, on or about May 9, 2014, he addressed his need for a service animal due to his post-traumatic stress disorder (PTSD) with his former supervisor, C.H., who responded that mentally-disabled people do not deserve service animals. He replied that he had a right to a service animal based on the Americans with Disabilities Act (ADA). Appellant noted that a few days prior to this incident, C.H. had approved his telework

[3] 5 U.S.C. § 8101 *et seq*.

request, but subsequently rescinded her approval after he opposed her discriminatory remark about the need for service animals.

Appellant also contended that on or about April 10, 2014, C.H. incorrectly informed him that employing establishment regulations prohibited him from applying for the same position at a higher pay grade. As a result, he did not apply for such a position and later discovered that she was wrong.

Appellant alleged that, on or about May 20, 2014, C.H. forced him to work for free on his own time to organize a training trip to Illinois without being trained on how to use the E2 Solutions system, the employing establishment's travel management system. He asserted that after he had finished this task, he sent her a message asking if he had performed the task correctly. C.H. ignored appellant's request, but later, on June 16, 2014, she threatened to make him pay out of pocket for travel expenses, including his airfare, because he did not correctly follow the travel voucher process. On June 2, 2014 she told him to lie on his travel voucher and claim that he chose "GOV" although he used his own vehicle. C.H. castigated him for failing to falsify his travel voucher as ordered.

Appellant further alleged that, also on or about June 16, 2014, he informed C.H. that he had a medical appointment on the following day. After he used sick leave on the date of his appointment, she e-mailed him and her supervisors contending that he was absent without leave (AWOL) rather than the truth that he was sick. On or about June 20, 2014, appellant notified M.M. that he was harassed by C.H. in the aforementioned incidents. He also asserted that, on or about June 23, 2014, C.H. deleted his two hours of administrative leave without justification. Appellant disputed her action, and she was forced to rescind it.

Appellant claimed that, on or about June 24, 2014, M.M. e-mailed him stating that he could not talk to him about his allegation of harassment by C.H. He further claimed that, on or about June 25, 2014, he e-mailed C.H. accusing her of discrimination based on her comments that people with PTSD did not need service animals and rescission of his telework agreement. Appellant noted that her actions caused his anxiety to peak, which affected his ability to sleep and work. He noted that C.H. did not respond to his e-mail. Appellant then sent an e-mail to her supervisor, J.M., indicating that he did not feel welcome. He also sent an e-mail to the Equal Employment Opportunity (EEO) office about C.H.'s actions and was informed of his right to request accommodations.

Appellant maintained that, on or about June 30, 2014, he requested three accommodations, which included full-time telework, communication by e-mail only with his supervisor, and waiver of the requirement to work core hours. He also maintained that, on or about July 10, 2014, C.H. told him that she would deny all of his accommodation requests. On or about July 28, 2014, C.H. only approved his request for waiver of the core hour work requirement and denied his telework request. Appellant further maintained that, on or about July 10, 2014, C.H notified him that she had selected two other candidates over him for mediation training because they had better qualifications. He claimed that he was clearly the most qualified as he was the only certified mediator.

Appellant alleged that, on or about July 18, 2014, C.H. did not approve his request for sick leave and as a result he had to work while sick. On that same date, he sent J.M. an e-mail requesting a transfer because his work situation was compromising his health and well-being. Appellant also requested that Dr. Callwood[4] at the EEO office grant his request to amend his accommodations request to add a temporary transfer until his supervisor retired or he obtained a comparable job.

Additionally, appellant alleged that, on or about July 28, 2014, he received a failing performance evaluation rating from C.H. C.H. falsely alleged that he did not ask questions in some of his interviews. Appellant indicated that his interviews were recorded which would support his contention that he did ask questions.

Appellant alleged that, on or about July 30, 2014, he sent a complaint to Dr. Callwood alleging discrimination by C.H. He asserted that in an e-mail sent to Dr. Callwood on or about August 6, 2014, he requested new accommodations, which included recording his conversations with his supervisors and have them recognize his input. Appellant noted that no one responded to his request to record his conversations. He also advised Dr. Callwood that he was not comfortable with partial accommodation of his telework request, but that he would give it a chance. Appellant requested that his mid-term evaluation not be considered a factor in his advancement effort.

Additionally, appellant asserted that on or about August 14, 2014, he started to work for M.M. He informed M.M. that he suffered from PTSD and traumatic brain injury (TBI) and that he was harassed by C.H. M.M. responded that he had problems with appellant's request for ADA accommodations and that appellant was lying about C.H. He used profane language and warned appellant that he would harass him even greater than C.H. M.M. also instructed appellant to intimidate a complainant by telling him that the employing establishment would prosecute him for extortion for filing multiple complaints even though M.M. admitted that the complaints seemed legitimate. He also instructed appellant to call complainants a lot and when they did not answer to send them a pending dismissal letter so that their case could be thrown out.

Appellant claimed that, on or about August 25, 2014, M.M. instructed him to request to work more than eight hours per day, even though none of the other investigators were required to do so. He also claimed that, on or about September 5, 2014, C.H. issued a letter of reprimand to him accusing him of embezzling tax dollars by falsifying his timesheet when he indicated that he clocked out later than he actually worked while attending an out-of-town training course in Chicago, Illinois. Appellant noted that C.H. had approved his travel voucher on June 25, 2014 and, thus, she already knew about the time zone difference between Providence, Rhode Island and Chicago, Illinois but waited over two months to file the reprimand letter after he filed complaints against her and made accommodation requests. On or about September 10, 2014, he submitted a grievance to M.M. regarding C.H.'s reprimand letter. Appellant maintained that, on or about September 12, 2014, C.H. admitted that he was a qualified disabled individual, but denied his telework and e-mail communication accommodation requests. He further maintained that, on or about October 14, 2014, he informed G.B. of his allegation of discrimination by whistleblower regional supervisory investigators based on his disability.

[4] The Board notes that Dr. Callwood's professional qualifications are not contained in the case record.

Appellant alleged that, on or about October 18, 2014, he notified the EEO office that he wanted to file a complaint against M.M., as M.M. attempted to undermine his ability to build his EEO case. M.M. related that he was only available to talk to a union or EEO representative for one minute or so during work time. He also denied appellant's request to leave work to pick up his medications and castigated him for asking to do so. Appellant further alleged that, on or about October 29, 2014, appellant submitted comments on his performance evaluation to M.M. requesting clarification. On the next day, M.M. told him that he had not received the comments and that he would send his evaluations to the regional administrator without his comments.

On or about December 19, 2014, appellant met with C.H. who denied his request to remove the letter of reprimand from his record. He then had a PTSD anxiety attack and was admitted to an employing establishment medical center in Providence, Rhode Island. After his release from the medical center, appellant, on December 23, 2014, had an appointment with M.R. of the employing establishment's Employee Assistance Program. M.R. noted that he provided an understandable and believable account of his struggles after filing a grievance against his superiors for harassment and discrimination based on his PTSD and denial of his accommodation requests. She wrote that appellant clearly suffered intense, multiple, and seriously concerning ongoing symptoms of major mental health diagnoses. M.R. further wrote that he was positive for PTSD and additionally had recurrent medium-to-severe high depression with mood congruent psychotic features and generalized anxiety disorder, and panic disorder with agoraphobia. An effort to rule in hypomania or manic-depressive bipolar disorder was pursued. M.R. advised that appellant was seriously mentally disabled and unable to return to his Federal Government position at the employing establishment. She noted that he was 100 percent totally incapacitated from work for three to six months. If appellant could later return to work, then he could work two hours per day, three days per week.

Lastly, appellant contended that, on or about December 23, 2014, M.M. informed him that he would be fired if he did not submit to an interrogation, which he claimed was against the law. He indicated that he had no stressors outside of his federal employment. Appellant described his emotional symptoms and conditions, and medical treatment.

Administrative documents received included a performance plan and mid-year review dated August 8, 2014, which noted that appellant's job performance did not meet the standards and needed improvement in several areas, including independent planning, preparation for and leading and conducting complex whistleblower investigators under the supervision of a supervisory or senior investigator, and effective verbal and written communication. In a September 10, 2014 grievance form, appellant contended that C.H. falsely accused him of lying about his intent to travel for work at night on June 2 and 13, 2014, falsifying his timesheet for pay period 11 on June 2, 2014, failing to purchase a flight through the E2 Solutions system on May 20, 2014 and making unprofessional and argumentative comments on the E2 Solutions system on June 23, 2014. In reasonable accommodation request forms dated June 28, July 29, and October 16, 2014, and March 25 and July 6, 2015, he requested the above-described reasonable accommodations, and also requested reasonable accommodations for an improvement plan that included screenings and written chronologies for other investigators' screenings, a workweek of no more than 20 hours per week on Mondays and Tuesdays, and no communication with M.M. and C.H. An undated notice of proposed removal was issued by the employing establishment to

appellant for his inability to perform his position since December 31, 2014 due to a medical condition. In an August 26, 2014 memorandum, the employing establishment partially granted appellant's request for reasonable accommodations for four days of telework and one day of work in the office, waiver of the core-hour work requirement, thereby allowing him to work anytime between 6:00 a.m. and 7:00 p.m., Monday through Friday, and a transfer to M.M., effective August 14, 2014. It denied his request for only e-mail communication with his supervisor explaining that the supervisor/employee relationship communication modalities included use of the telephone and e-mail and face-to-face interactions. A September 5, 2014 letter of reprimand was issued by C.H. to appellant for inappropriate conduct related to her travel to Chicago for training in June 2014. She noted that he falsified his timesheet for pay period 11 by entering compensatory time for travel at night rather during the dayon June 2 and 13, 2014. Appellant also failed to follow instructions to book his travel to Chicago through E2 Solutions. He made his own flight reservations. When appellant submitted his travel voucher for his trip, C.H. instructed him to write in the comment section that he would use the E2 Solutions system to book a future flight. On June 23, 2014 he resubmitted his travel voucher with a comment that he did not purchase his flight through the E2 system because he had not been offered training on how to properly submit his request through this system. C.H. maintained that appellant's comments were unprofessional, argumentative, and untruthful. She contended that he received training on the mandatory use of the E2 system for making travel reservations on April 2, 2014, as a prerequisite to receiving his travel charge card. C.H. related that the training clearly stated that appellant was required to use the travel management system selected by the employing establishment for all common carrier arrangements. She maintained that his conduct lacked candor and seriously undermined his credibility and trustworthiness. C.H. also maintained that as appellant's supervisor she had the authority to direct her employees and he had an obligation to follow her instructions. Based on the above-described pattern of disregard for supervisory instructions, she determined that appellant had breached the employer-employee relationship which would not be tolerated. Appellant completed investigative affidavits on March 25, April 6, and August 25, 2015 and reiterated his allegations of disparate treatment and discrimination by the employing establishment based on his PTSD and TBI, and removal from his position at the employing establishment.

A settlement agreement dated October 5, 2015 regarding appellant's removal from employment provided, among other things, that the employing establishment would withdraw the removal notices and not put them in appellant's official personnel folder, place him on leave without pay status until June 1, 2016 when he would receive a decision from the Office of Personnel Management regarding his disability retirement application, and amend his October 31, 2014 performance appraisal from minimally satisfactory to effective. The settlement agreement also provided that it did not constitute or would be construed as an admission of liability or fault on the part of the employing establishment, its officers, officials, employees, or agents, or appellant.

Appellant also submitted e-mails dated June 25, July 18, and October 14, 2014 between himself, C.H., J.M., and G.B. alleging that regional supervisors discriminated against him based on his disability, denied his requests for training, a full-time telework schedule, and a transfer, and placed him on AWOL status. Additionally, he submitted medical evidence.

In a May 4, 2017 development letter, OWCP requested a response from the employing establishment regarding appellant's allegations. The employing establishment was afforded 30 days to provide the requested information.

Appellant subsequently submitted additional medical evidence.

In a June 2, 2017 letter, E.S., an employing establishment workers' compensation technical specialist, responded to OWCP's May 4, 2017 development letter. He noted that he did not concur with appellant's allegations. E.S. further noted that appellant received accommodations for a change in his supervisor, telework four days per week, and waiver of the requirement to work core hours thereby allowing him to work any hours between 6:00 a.m. and 7:00 p.m., Monday through Friday. Prior to appellant's separation from the employing establishment, he was on a performance improvement plan (PIP), had been issued a letter of reprimand for lack of candor and inappropriate conduct, and reached a settlement agreement with the employing establishment regarding his EEO complaint before a final decision was issued. E.S. contended that he had not submitted corroborating evidence to establish error or abuse on the part of the employing establishment in the handling of these disciplinary actions and matters. He asserted that the employing establishment acted in good faith in its efforts to accommodate appellant's preexisting medical conditions until his physician determined he was no longer capable of working. E.S. also asserted that it was unclear as to what condition he claimed was causally related to his federal employment. He submitted an official copy of appellant's whistleblower investigator position.

In a July 10, 2017 letter, appellant expressed his desire to press criminal charges against M.M. for discrimination and retaliation against him.

In an August 9, 2017 memorandum, appellant responded to E.S.' June 2, 2017 letter. He contended that proof from his healthcare provider that his job exacerbated his emotional conditions which rendered him medically unable to work was sufficient to establish his claim. Appellant claimed that he did not receive OWCP's March 15, 2017 development questionnaire. He further claimed that he had submitted sufficient evidence to establish error or abuse on the part of the employing establishment. Additionally, appellant asserted that his EEO complaint regarding the issuance of an inaccurate letter of reprimand established workplace harassment. He also asserted that his medical diagnosis was PTSD. Appellant reiterated his allegations of harassment and discrimination by the employing establishment, which exacerbated his condition and caused his disability from work.

OWCP, by decision dated August 22, 2017, denied appellant's claim for an employment-related emotional condition, finding that he had not established a compensable employment factor. It determined that the evidence of record was insufficient to demonstrate that management subjected him to harassment or that management committed error or abuse with respect to several administrative matters. OWCP further determined that appellant failed to submit medical evidence containing a medical diagnosis in connection with the alleged event(s). It concluded, therefore, that the requirements had not been met to establish "an emotional condition that arose during the course of employment and within the scope of compensable work factors as defined by the FECA."

On April 10, 2018 appellant requested reconsideration. He cited Board precedent and contended that he was discriminated and retaliated against, and harassed by C.H. based on his disability and that the employing establishment committed error and abuse.

By decision dated March 18, 2020, OWCP denied modification of the August 22, 2017 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[5] has the burden of proof to establish the essential elements of his or her claim,[6] 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.[7] 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.[8]

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 accepted compensable employment factors are causally related to the diagnosed emotional condition.[9]

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.[10] However, disability is not compensable when it results from factors such as an

[5] *Supra* note 3.

[6] *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).

[7] *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).

[8] 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).

[9] *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).

[10] *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).

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.[11]

An employee's emotional reaction to administrative or personnel matters generally falls outside of FECA's scope.[12] 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.[13] 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.[14]

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.[15] Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.[16]

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.[17] 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.[18] If a compensable factor of employment is substantiated, OWCP must base its decision on an analysis of the medical evidence which has been submitted.[19]

ANALYSIS

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

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[11] *Lillian Cutler, id.*

[12] *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).

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

[14] *Id.*

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

[16] *Id.*; *see also Kim Nguyen*, 53 ECAB 127 (2001).

[17] *Dennis J. Balogh*, 52 ECAB 232 (2001).

[18] *Charles E. McAndrews*, 55 ECAB 711 (2004).

[19] *Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

Appellant has attributed his emotional condition in part to *Cutler*[20] factors. He alleged that he had not received the requisite training to process his work-related travel reservations through the E2 Solutions system. The Board has held that an employee's emotional reaction to being made to perform duties without adequate training is compensable.[21] However, appellant submitted no evidence supporting his allegation that he had not received the requisite training to process his training reservations. C.H. noted that, on April 2, 2014 appellant received training on the mandatory use of the E2 system, which was a prerequisite for him to receive a travel credit card. She further noted that the training clearly stated that appellant was required to use the E2 system for all common carrier arrangements. Without evidence substantiating that appellant was not provided with the requisite training to perform his job, appellant has failed to meet his burden of proof to establish a compensable factor of employment under *Cutler*.[22]

Appellant's allegations regarding determinations related to telework,[23] the denial of his requests for a transfer[24] and reasonable accommodations,[25] the handling of leave requests and attendance matters,[26] changing his leave status,[27] being forced to work without pay,[28] performance awards and appraisals,[29] hiring and selection, work assignments, and modification of work schedule,[30] issuance of letters of reprimand letter and removal and placement on a PIP,[31] the

[20] *Supra* note 10.

[21] *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).

[22] *Id*.

[23] *L.S.*, Docket No. 18-1471 (issued February 26, 2020).

[24] *F.W.*, Docket No. 19-0107 (issued June 10, 2020); *D.J.*, Docket No. 16-1540 (issued August 21, 2018); *Donald W. Bottles*, 40 ECAB 349, 353 (1988) (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).

[25] *M.S.*, *supra* note 21; *F.W.*, Docket No. 18-1526 (issued November 26, 2019); *James P. Guinan*, 51 ECAB 604, 607 (2000); *John Polito*, 50 ECAB 347, 349 (1999).

[26] *F.W.*, *supra* note 24; *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *C.T.*, Docket No. 08-2160 (issued May 7, 2009).

[27] *L.S.*, *supra* note 23.

[28] *W.F.*, Docket No. 18-1526 (issued November 26, 2019); *L.H.*, Docket No. 13-0923 (issued September 22, 2014); *T.M.*, Docket No. 07-2284 (issued May 2, 2008).

[29] *R.B.*, *supra* note 26; *D.I.*, Docket No. 19-0534 (issued November 7, 2019).

[30] *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).

[31] *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).

handling of grievances and EEO complaints[32] 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.[33] Appellant has not submitted any corroborative evidence to establish a factual basis for his allegations. As such, the Board finds that appellant has not established a compensable employment factor with respect to these administrative matters.

Appellant alleged that he was harassed, discriminated against, and subjected to disparate treatment based on his disability, and also subjected to reprisals for filing an EEO complaint by C.H. 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.[34] 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.[35] Although appellant alleged that his supervisors engaged in actions, which he believed constituted harassment, discrimination, disparate treatment, and reprisals, he provided no corroborating evidence to establish his allegations.[36] Based on the evidence of record, the Board finds that appellant has not established, with corroborating evidence, that he was harassed, discriminated against, or subjected to disparate treatment and reprisals by the employing establishment.

As the Board finds that appellant has not established a compensable employment factor, it is not necessary to consider the medical evidence of record.[37]

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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[32] *M.S., supra* note 21; *B.O.*, Docket No. 17-1986 (issued January 18, 2019); *James E. Norris*, 52 ECAB 93 (2000).

[33] *Thomas D. McEuen, supra* note 12.

[34] *W.F., supra* note 28; *F.C.*, Docket No. 18-0625 (issued November 15, 2018); *Kathleen D. Walker*, 42 ECAB 603 (1991).

[35] *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, abuse, or difficulty arising in the employment are insufficient to give rise to compensability under FECA).

[36] *See William P. George*, 43 ECAB 1159, 1167 (1992) (claimed employment incidents not established where appellant did not submit evidence substantiating that such incidents actually occurred).

[37] *See M.S., supra* note 21; *R.B.*, Docket No. 19-0434 (issued November 22, 2019); *B.O., supra* note 32 (finding that it is not necessary to consider the medical evidence of record if a claimant has not established any compensable employment factors). *See also Margaret S. Krzycki*, 43 ECAB 496, 502-03 (1992).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the March 18, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 6, 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