

FACTUAL HISTORY

On January 8, 2020 appellant, then a 57-year-old supervisor, filed an occupational disease claim (Form CA-2) alleging that on October 17, 2019 she suffered an anxiety attack and collapsed due to factors of her federal employment. She stopped work on the date of injury.

In an undated statement, appellant related that, due to staffing issues, she performed the work of two supervisors as she covered delivery units for both the Hammond Main and the Hammond South Calment stations. She described her symptoms on October 17, 2019 prior to her collapse, and noted that her collapse was witnessed by L.H., a distribution clerk. Appellant indicated that she was hospitalized, but her medical workup was negative. She later learned from a therapist that she had suffered an anxiety attack. Appellant noted that she had previously been diagnosed with generalized anxiety/depression relating to stress in December 2015.

In October 17, 2019 emergency department records, Dr. Eric T. Cook, an osteopath and emergency medicine specialist, noted that appellant had a medical history of hypertension and presented status post syncopal episode while at work. Appellant did not specifically remember if she hit her head, but woke up from the episode on the floor. A diagnosis of syncope and collapse and symptomatic bradycardia was provided. Appellant was admitted to the hospital that day and discharged the next day. In the discharge summary notes, Dr. Niket K. Shah, an osteopath and hospital medicine specialist, noted that appellant presented to the hospital with syncope likely from situational stress, with a witnessed fall to the ground. He noted appellant's hospital course and presented examination findings. The discharge diagnosis was syncope and collapse.

In a January 6, 2020 report, Blythe H. Smith, a licensed clinical professional counselor (LCPC), advised that appellant was under her care for a major depressive episode accompanied with anxiety and intense work-related stress. She opined that appellant was unable to work.

In a January 10, 2020 letter, D.W., a postmaster, controverted appellant's claim. He noted that on October 17, 2019 appellant's alleged anxiety attack occurred 15 minutes after she started work. D.W. also noted that appellant had numerous personal family issues that may have contributed to her alleged anxiety attack.

In a January 15, 2020 development letter, OWCP informed appellant of the deficiencies of her claim, advised her of the type of factual and medical evidence needed, and provided a questionnaire for her completion. It afforded her 30 days to submit the requested evidence. A note to the employing establishment advised that, if appellant had been treated at an agency medical facility for this injury, her treatment notes should be provided directly to OWCP.

On January 20, 2020 appellant underwent a psychiatric diagnostic interview with Dr. Nitin Thapar, an osteopath Board-certified in psychiatry. In January 20 and February 10, 14, and 20, 2020 medical reports, Dr. Thapar noted appellant's past psychiatric history and her job as a supervisor. He indicated that her description of her collapse at work on October 17, 2019 and another one the next morning were both consistent with a panic attack with loss of consciousness. Dr. Thapar diagnosed generalized anxiety disorder and major depressive disorder, recurrent, moderate.

In a January 24, 2020 statement, appellant explained that in September 2013, she was promoted to supervisor of customer service and was assigned to the Hammond facility as an opening supervisor. She noted that, in addition to the training provided, she began to come in early around February/March 2014 off the clock to further her development and knowledge of her job duties. Appellant suffered her first anxiety attack around that time, and had to take a couple days off work when management began harassing her because of incomplete assignments. In April 2014, she was transferred to the Munster facility for further training/development with Customer Service Manager L.C. Appellant came in early and voluntarily took extended lunch so that she could close the station. She indicated that L.C. would also come in early to assist her on the days she knew the morning operation would be overwhelming for her. Appellant worked with L.C. for approximately one year, before L.C. transferred to Florida in May 2015. She indicated that for six months she had to run the entire office by herself until an acting supervisor was placed to assist her. Appellant alleged that the long working hours and responsibilities that came with running the entire office caused her great stress. Around that time, in December 2015, she was diagnosed with anxiety/stress and depression and was off work for more than a month. Appellant noted that this was the beginning of more anxiety episodes. In June 2017, she indicated that a new postmaster was brought in, who reassigned her to the Hammond facility. Although she was the opening supervisor, appellant alleged her schedule was continuously changed to accommodate operations, which caused stress. This meant that she had to work long hours, remain at work until all employees for both Hammond facilities were back in the office, make sure all the mail was dispatched out of the office, and sometimes, she was forced to take mail to the plant and work her scheduled off day. In late 2018 another postmaster took over and appellant's schedule changed again. Appellant alleged that she would open on some days and close on other days, which was stressful. She alleged that her supervisor told her that she would have to close as they were short staffed, and that he often raised his voice yelling/screaming and continuously threatened to write her up. In January 2019, appellant alleged that he was yelling on the workroom floor, that he refused to go into the office to talk, and that he told her to get out. She indicated that she left as instructed. Appellant later called off work because of stress and her doctor placed her off work for several days. She alleged that her supervisor refused to authorize sick leave. On October 16, 2019 appellant was scheduled as the closing supervisor and that she was stressed as work because that evening was chaotic. The following morning, October 17, 2019, she reported to work as the opening supervisor and suffered an anxiety attack. Appellant noted that she had been off work since the October 17, 2019 incident. She also completed OWCP's questionnaire on February 11, 2020.

Additional reports from Blythe H. Smith, LCPC were received.

In a January 25, 2020 statement, L.C. for the Munster facility, indicated that around March 2014, appellant, the opening supervisor for the Hammond facility, was assigned to her office and that she further trained her as a supervisor, customer service. In May 2015, she transferred to Florida, but would call to check on appellant. When L.C. called appellant in November 2019, appellant told her that she had fainted/blacked out in October while at work and that she was stressed by the many changes that were happening at work.

By decision dated February 20, 2020, OWCP denied appellant's emotional condition claim, finding that the factual basis of her claim had not been established.

In progress reports dated December 7, 2015 through February 3, 2020, Dr. Judith Marie Pickett, a Board-certified family practitioner, diagnosed anxiety and depression. The December 7, 2015 progress report noted that appellant was overwhelmed with multiple issues including professional and personal problems; the January 9, 2019 progress report noted that appellant reported that she was sent home from work the previous day because of explosive anger episode directed at her boss; and the February 3, 2020 progress report indicated that appellant had increased work stress with increased anxiety/depression, that she had been off work since October, and that her anxiety flared when she talked about work.

On May 14, 2020 appellant requested reconsideration. OWCP continued to receive evidence.

In a January 8, 2020 statement, L.H., indicated that on the morning of October 17, 2019, appellant came in early and as she discussed the prior evening's events with her, she suddenly stopped talking, stood up, and started staggering across the floor from her desk. She indicated that appellant did not respond when she called her name and that she had caught up with her as she dropped to the floor. L.H. noted that an ambulance was called and, when appellant came to, she did not understand why she was on the floor or what was happening.

OWCP also received a November 1, 2019 cardiovascular consult note by Anne Marie Tasler, an advance nurse practitioner, additional reports from Ms. Smith, medical reports dated October 31, 2016 from Dr. Thomas Difillipo, a Board-certified family practitioner, concerning appellant's episodes of lightheadedness and dizziness, and a December 12, 2018 report from Dr. Parul H. Doshi, a Board-certified family practitioner, concerning appellant's generalized anxiety disorder and benign hypertension.

In an April 17, 2020 report, Dr. Thapar indicated that appellant has been under his psychiatric care for treatment of major depressive disorder and generalized anxiety disorder since January 20, 2020. He noted that she described significant symptoms of depression and anxiety since at least 2015, which was precipitated by stress from work, and that her collapse at work in October 2019 appeared to be secondary to anxiety. Dr. Thapar opined that a return to work in a nonsupervisory role, with accommodations, would help prevent a recurrence of appellant's symptoms. Additional progress reports were received.

By decision dated July 15, 2020, OWCP modified its prior decision to find that fact of injury had been established, but affirmed the denial of appellant's claim as the medical evidence of record was insufficient to establish causal relationship between a diagnosed condition and the implicated employment factors.

On September 1, 2020 appellant requested reconsideration. In a July 29, 2020 letter, she provided details regarding the January 8, 2019 argument between Postmaster D.R. and herself, whereby she was instructed to "get out and/or leave." Appellant noted that she interpreted the instruction to mean to go home. She went to her doctor, but was unable to be seen that day. Appellant indicated that the next day, she requested that Postmaster D.R. grant sick leave for her absence the prior day, but he disapproved her request and marked her as leave without pay (LWOP). She later requested that he record her time under the Family and Medical Leave Act (FMLA), but he continued to mark her absence as LWOP. Appellant alleged a pay adjustment

was done to correct the LWOP. She further alleged that her requests for reasonable accommodations were denied.

OWCP received copies of text messages dated January 9, 2019 between Postmaster D.R. and appellant regarding the January 8, 2019 argument and leave, a May 21, 2020 medical restriction assessment from Dr. Thapar, and a June 12, 2020 denial of appellant's reasonable accommodation request.

OWCP also received copies of appellant's earning statement for January 5 through 18, 2019, which noted appellant's regular work hours, "extra straight time," and night work premium hours. It indicated that appellant worked over eight and a half hours of "extra straight time" and eight and a half night work premium hours during this pay period. A July 27, 2020 statement from T.A., a supervisor and acting manager at the Munster facility, detailed his treatment under Postmaster D.W. and which acknowledged there were staffing issues at that location.

By decision dated November 30, 2020, OWCP modified its July 15, 2020 decision to indicate that the emotional condition claim remained denied as appellant had not established a compensable employment factor in the performance of duty.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed, that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

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) medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.⁵

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

² *Id.*

³ *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *Gary J. Watling*, 52 ECAB 278 (2001); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *see T.O.*, Docket No. 18-1012 (issued October 29, 2018); *see Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *See A.M.*, Docket No. 21-0420 (issued August 26, 2021); *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

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.⁶ 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.⁷

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer, not regular or specially assigned work duties of the employee and are not covered under FECA.⁸ 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.⁹

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.¹⁰ 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.¹¹

ANALYSIS

The Board finds that appellant has established overwork as a compensable factor of her federal employment.

The issue presented in the case is whether appellant sustained an emotional condition in the performance of duty. Appellant alleged that she aggravated her depression and anxiety and developed stress due to overwork. She asserted that she experienced emotional stress in carrying out her employment duties as a result of having to work as both the opening and closing supervisor due to staffing issues and that she experienced stress in carrying out her employment duties including attempting to meet goals and directives. Appellant also alleged that her supervisors erred in changing her schedule as the opening/closing supervisor to accommodate its needs due to understaffing, erred in the handling of administrative matters relating to leave requests following

⁶ See *A.M., id.*; *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).

⁷ *Lillian Cutler, id.*

⁸ *S.S.*, Docket No. 21-0184 (issued July 14, 2021).

⁹ *Id.*

¹⁰ See *R.B.*, Docket No. 19-0434 (issued November 22, 2019); *O.G.*, Docket No. 18-0359 (issued August 7, 2019).

¹¹ *Id.*

a yelling incident with the postmaster when she was told to leave, and erred in denying her request for reasonable accommodation. OWCP denied appellant's claim, finding that she had not established a compensable employment factor. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA.

Appellant has attributed her emotional condition, in part, to performing the regular or specially-assigned duties of her position as a supervisor. She alleged that she was overworked as her duty station was chronically understaffed, and that on occasion she had to open and close the duty station. Appellant noted that the long working hours and responsibilities that came with running the entire office caused her great stress and that she had to work long hours, remain at work until all employees for both facilities were back in the office, make sure all the mail was dispatched out of the office, and sometimes, she was forced to take mail to the plant and work her scheduled off day. In his July 27, 2020 statement, T.A., a former supervisor and acting manager at the Munster facility, corroborated appellant's allegation that there were staffing issues at that location. The Board has held that overwork, when substantiated by sufficient factual information to corroborate appellant's account of events, may be a compensable factor of employment.¹² In light of appellant's description of her duties and responsibilities involving working at three different facilities, as well as the corroboration by T.A., the Board finds that appellant has established a compensable employment factor with respect to her allegation of overwork.¹³

The Board further finds, however, that appellant's additional allegations do not constitute compensable employment factors. Appellant has raised allegations regarding administrative and personnel actions regarding changes to her schedule, leave matters following a January 8, 2019 yelling incident with the postmaster where she was instructed to leave, and denial of reasonable accommodation.

There is no credible evidence of error or abuse by the handling of administrative matters relating to appellant's leave requests following a January 8, 2019 heated conversation with the postmaster. The evidence of record reflects that on January 8, 2019, the postmaster told appellant to get out/or leave and that appellant left work for the day. Appellant reported to her physician that she was sent home from work because of an explosive anger episode directed at her boss. The texts of record support her account that the postmaster disapproved her request for sick leave, but later approved her request for updated FMLA. Given the factual circumstances, the employing establishment took reasonable action by directing appellant to leave during a heated exchange and later properly accredited appellant with leave under FMLA. Mere disagreement or dislike of actions taken by a supervisor will not be compensable absent evidence establishing error or abuse.¹⁴ Further, an employee's reaction to an administrative or personnel matter is not covered

¹² *S.S.*, Docket No. 19-1021 (issued April 21, 2021); *I.P.*, Docket No. 17-1178 (issued June 12, 2018); *William H. Fortner*, 49 ECAB 324 (1998).

¹³ *See L.Y.*, Docket No. 20-1108 (issued November 24, 2021).

¹⁴ *R.B.*, Docket No. 19-1256 (issued July 28, 2020); *D.J.*, Docket No. 16-1540 (issued August 21, 2018); *Linda Edwards-Delgado*, 55 ECAB 401 (2004).

by FECA, unless there is evidence that the employing establishment acted unreasonably.¹⁵ The Board finds that appellant has not established any error or abuse related to these administrative matters.

Appellant also generally alleged stress with regard to the changing of her schedule and the denial of reasonable accommodation. Because she has not presented sufficient evidence to establish that her supervisor acted unreasonably or that the employing establishment engaged in error or abuse in these personnel matters, she has failed to identify a compensable work factor relating to these allegations.¹⁶

As appellant has established overwork as a compensable factor of employment, the case must be remanded for an evaluation of the medical evidence with regard to the issue of causal relationship.¹⁷ Accordingly, the Board will set aside OWCP's November 30, 2020 decision and remand the case for further development of the evidence with regard to whether appellant has rationalized medical evidence establishing that she has an emotional condition, and that such condition is causally related to the accepted compensable employment factor of overwork.¹⁸ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has established overwork as a compensable factor of her federal employment. The Board further finds that this case is not in posture for decision as to whether appellant sustained an emotional condition causally related to the compensable employment factor of overwork. The Board also finds that appellant has not established error or abuse as a compensable employment factor.¹⁹

¹⁵ *Id.*; see also *Alfred Arts*, 45 ECAB 530 (1994).

¹⁶ *Id.*; see also *B.G.*, Docket No. 18-0491 (issued March 25, 2020).

¹⁷ *L.Y.*, *supra* note 16; *S.S.*, Docket No. 21-0814 (issued July 14, 2021); *M.D.*, Docket No. 15-1796 (issued September 7, 2016).

¹⁸ *Id.*

¹⁹ With regard to the alleged error or a buse by the employing establishment, 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.

ORDER

IT IS HEREBY ORDERED THAT the November 30, 2020 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 8, 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