

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

B.T., Appellant)	
)	
and)	
)	
DEPARTMENT OF DEFENSE, DEFENSE)	Docket No. 20-1627
COMMISSARY AGENCY, FORT BRAGG)	Issued: January 11, 2023
NORTH DEFENSE COMMISSARY,)	
Fort Bragg, NC, Employer)	
)	

Appearances:
Wayne Johnson, 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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On September 14, 2020 appellant, through counsel, filed a timely appeal from a March 18, 2020 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 over 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 her burden of proof to establish an emotional condition in the performance of duty, as alleged.

FACTUAL HISTORY

On May 24, 2017 appellant, then a 32-year-old sales store checker, filed an occupational disease claim (Form CA-2) alleging that she experienced undue stress and anxiety due to factors of her federal employment. She noted that she first became aware of her conditions and first realized they were caused or aggravated by her federal employment on April 1, 2017. Appellant did not stop work.

In a May 10, 2017 witness statement, appellant's team lead, J.O., stated that on May 9, 2017 appellant came to her, asking if she could complete a transaction for a customer with a civilian identification (ID) card. She advised that she could not and after speaking with the customer, she advised appellant to wait until their supervisor, C.K., responded for a request for assistance. However, by the time C.K. arrived, appellant had already completed the transaction and scanned the customer's ID card.

On May 20, 2017 C.K. issued a letter of warning and notified appellant that on May 9, 2017 she failed to follow oral instructions she and J.O. provided by completing a transaction of a customer who did not have a proper identification and privilege to shop.

In a May 20, 2017 leave request form, C.K. approved appellant's request for advanced annual leave for four hours relating to symptoms of anxiety. She noted that appellant became upset after receiving the letter of warning and requested to go home. A separate and unsigned leave request form of even date indicated that appellant's request for advanced sick leave for that date was denied. An unsigned leave request form dated May 23, 2017 noted that appellant's request for advance sick leave for anxiety for May 21, 2017 was also denied.

In a May 20, 2017 medical note, Dr. David C. Kaplan, an internal medicine specialist, excused appellant from work until May 22, 2017.

In a May 23, 2017 letter, Dr. Avtar Singh, a psychiatrist, noted that appellant presented that day with work-related emotional stress. He related that she required adjustments to her medications as her work-related stress overwhelmed her. Dr. Singh excused appellant from work for 90 days.

In a May 24, 2017 statement, appellant asserted that she was diagnosed with service-connected post-traumatic stress disorder (PTSD), anxiety, and depression since approximately March 2012. She alleged that she experienced constant badgering, schedule changes, pettiness, micromanagement, and unprofessionalism by the employing establishment. Appellant noted that, as a result, she developed tightening of the chest, nausea, tachycardia, rise in blood pressure, fight-or-flight response, loss of appetite/dehydration, alopecia, sleeplessness, and lack of confidence. She further asserted that since she was honorably discharged from the U.S. Army in 2006, she was

neither exposed to other stressors nor experienced the stated symptoms as she currently did at the employing establishment.

In a May 30, 2017 development letter, OWCP informed appellant of the deficiencies of her claim. It requested that she submit additional factual and medical evidence and provided a questionnaire for her completion. In a separate letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's occupational disease claim, including comments from a knowledgeable supervisor regarding the accuracy of appellant's statements. It afforded both parties 30 days to provide the requested information.

In an April 6, 2017 report, Kendra Danzer, a licensed clinical social worker (LCSW), noted that appellant suffered from service-related PTSD. She related that appellant started a new job which was causing her additional stress. Appellant reported feeling overwhelmed, irritable, agitated, and angry.

In an April 6, 2017 medical report, Dr. Michael Sochat, an emergency medicine specialist, noted that appellant had a history of PTSD, bipolar disorder, and polycystic ovary syndrome. Appellant reported that she could not get time off from the employing establishment, which caused her stress. She also admitted to noncompliance with her medications, which had caused increased anxiety and stress. Dr. Sochat conducted a physical examination, which revealed normal results. He indicated that appellant was referred to trauma recovery therapy. Dr. Sochat opined that she was 100 percent disabled.

In a May 20, 2017 report, Tracy Herriott, an LCSW, noted that appellant was being treated for increased anxiety due to conflict on the job. Appellant reported that although her job was not hard, she felt that management mistreated her, making the work environment highly stressful. She noted that she was written up for an incident that occurred approximately three weeks ago and that she had a disagreement with her supervisor earlier that day. In a report of even date, Robin Lennox-Auston, a registered nurse, noted that she felt stressed due to work-related problems. Appellant related that she experienced hair loss, improper eating, and depression. She alleged that her supervisor was giving her a hard time by not allowing her to make her scheduled medical appointments. In a separate report of even date, Burroughs Svetlana, a registered nurse, also noted that appellant experienced anxiety and stress due to her work.

In a May 23, 2017 medical report, Dr. Singh diagnosed PTSD and bipolar disorder. He noted that appellant was stressed at the employing establishment and had been using a lot of sick leave, even leave without pay (LWOP). Appellant reported experiencing manic episodes, anxiety, anger issues, and difficulty getting along with people.

The employing establishment submitted a position description for a sales store check.

In a June 12, 2017 response to OWCP's questionnaire, the employing establishment indicated that it could not verify appellant's allegations because she did not provide any specifics. It noted that she was generally able to perform her required duties, except for one counseling statement, which had been submitted for an error she made at work. The employing establishment also asserted that management was trying to work with appellant, but that it was having difficulty communicating with her.

On June 12, 2017 OWCP received e-mails dated June 6, 9, and 10, 2017 between appellant and C.K. On June 6, 2017 appellant notified C.K. that she felt that no matter what reasonable accommodation request she made, she would continue to ask her for more documents. She asserted that this was a type of harassment, which was stressful to her, and accused C.K. of lacking care or compassion. On June 9, 2017 appellant asked C.K. for an update on the status of her leave request. On June 10, 2017 C.K. apologized to appellant for e-mailing her while she was on sick leave and noted that she was trying to get her paperwork handled in an appropriate manner. She further noted that she had not previously received appellant's leave request.

In a June 18, 2017 response to OWCP's questionnaire, appellant made detailed allegations regarding the employing establishment for the period between November 2016 and May 2017. She asserted that in November 2016 C.K. directed her to stand by the front door entrance, triggering her anxiety and panic attacks. This caused appellant to seek medical attention and she was placed on bed rest by her physician. Appellant alleged that she provided her doctor's note to the employing establishment, but C.K. refused to make decisions on her request for advanced sick leave and the employing establishment instead issued accrued leave while making errors on her timesheets, causing a financial hardship for several weeks before the mistakes were corrected. She asserted that on January 10, 2017 one of her team leads asked her to stay for an additional hour due to cashier shortage. Appellant noted that while she was helping out a patron, who struggled to locate items, the patron forgot to sign her voucher. She alleged that when she tried to correct the mistake on January 11, 2017, C.K. prevented the patron from reentering, causing the accounting error to remain. Appellant asserted that this episode caused her undue stress. She alleged that in February 2017 she was requested by management to submit additional medical documents and that C.K. continued to direct her to stand at the front door entrance despite knowing her physical and mental impairments. Appellant indicated that one of her diagnoses was diabetes and that she needed to periodically consume a light snack to maintain her blood sugar level under control. She asserted that one day she was unnecessarily harassed by J.O. for having a cup of ice, which was inspected to ensure that there was only iced water inside.

Appellant alleged that her assistant store director repeatedly refused her oral and written requests for advanced sick leave. She also asserted that C.K. discussed her personal information in front of patrons, violating her confidentiality and right to privacy. Appellant explained that this was why she completely lacked trust in her supervisor's ability, and feared that she would cause her harm. She also alleged that despite her continued requests for advance leave, C.K. kept putting her on regular accrued sick and annual leave, which automatically defaulted to LWOP, causing her a severe financial hardship when her leave balance was too low. Appellant noted that her reasonable accommodation request to work as a part-time employee was rejected. She alleged that on April 14, 2017, after she returned to work from her bed rest and when she tried to talk to management about her timesheets, she was harassed by another lead worker, who followed her, repeatedly questioned her, and stated that she was not on a break. Appellant described this incident as harassment since the timesheet management and control were part of their official duties while at work.

Appellant alleged that on April 15, 2017 a team lead prevented her from sipping a drink that a concerned patron bought her when she was dehydrated and her sugar levels were dropping. She tried to explain her medical condition, but her team lead did not believe her. Appellant was told later that her previously submitted medical documentation was not adequate. She asserted

that this was the pattern of management trying tear her down. Appellant alleged that on April 24, 2017 when she was placed on a busy cash register all day for the second day in a row, she unsuccessfully tried to object this placement by explaining that, due to her physical and mental impairments, she was not able to perform duties at that station because the pacing there was much more intense and busier than other stations. She asserted that a team lead rolled her eyes, shook her head, yelled, and mumbled in a foreign language before storming off. Appellant alleged that on May 9, 2019, after the incident involving a patron without a valid privilege card, C.K. approached her and asked her to sign some paperwork without affording her any opportunity to read it. On May 16, 2017, C.K. asked appellant to come to her office, with J.O. as a witness, to discuss her leave request. Appellant explained that she felt uncomfortable discussing her personal situation in front of a coworker who had not been identified as a member of her supervisory chain. She asserted that on May 20, 2017 C.K. again asked her to come to her office, with another team lead, to discuss the May 9, 2017 incident without affording her the opportunity to have a union representative. Appellant noted that it took C.K. another two weeks before issuing the write-up, which triggered her anxiety and resulted in her leaving to seek medical attention.

Appellant's union representative submitted a series of e-mails dated April 11 to May 24, 2017 related to her leave requests and the work conduct. In an e-mail dated May 6, 2017, she asked C.K. not to approach her with paperwork in front of customers. The union representative also submitted an unsigned May 23, 2017 leave request form, which indicated that appellant requested advance sick leave for the period May 26 to August 23, 2017.

In an August 4, 2017 letter, Dr. Singh again noted that appellant had a history of PTSD and bipolar disorder. He opined that her work environment was a constant trigger of her PTSD symptoms and affected her day-to-day life as well as her mental stability, causing undue stress.

In an August 14, 2017 letter, Dr. Amanda L. Nielsen, a licensed psychologist, excused appellant from work for an additional 90 days.

By decision dated October 3, 2017, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that her medical condition arose during the course of employment and within the scope of compensable work factors.

On October 3, 2018 appellant, through counsel, requested reconsideration. Counsel provided a list of several factors that allegedly caused appellant undue stress, including being forced to work when she was ill, denied of her leave requests, and being harassed. He asserted that newly submitted evidence would show that her leave requests were improperly denied. Counsel noted that appellant's one leave request was approved after filing a congressional complaint.

In a May 22, 2017 letter to Senator Bill Nelson, appellant reiterated her allegations from her June 18, 2017 response to OWCP's questionnaire and asserted that she was experiencing a hostile work environment.

In a February 8, 2018 letter, Dr. Singh opined that appellant could return to work and recommended a three-day work schedule. In a February 26, 2018 e-mail to management, appellant requested a three-day work schedule.

In a March 16, 2018 termination memorandum, C.K. notified appellant that her employment was terminated effective March 21, 2018. She explained that her employment was terminated due to extensive absences for more than nine consecutive months. C.K. further explained that prior to her termination, appellant was placed on a two-year probationary period, where she could be terminated at any time her work performance or conduct failed to demonstrate fitness for continued employment.

Appellant resubmitted the May 23, 2017 leave request form, now approved by C.K. on June 13, 2017 for advanced sick leave for the period May 26 to August 13, 2017.

Appellant also submitted additional e-mails regarding her leave requests.

In an August 15, 2018 letter, the Equal Employment Opportunity (EEO) Office indicated that appellant filed a complaint on August 7, 2018.

By decision dated December 20, 2018, OWCP denied modification of its October 3, 2017 decision.

On December 20, 2019 appellant, through counsel, again requested reconsideration. Counsel argued that appellant's PTSD had been severely aggravated when her leave request was improperly denied. He asserted that the employing establishment terminated her rather than providing her reasonable accommodation.

In a January 15, 2019 sworn testimony, appellant reiterated her allegations and asserted that she was subjected to discrimination on the basis of mental disability, reprisal for her EEO-protected activity, harassment, and hostile work environment by management. She alleged that she was eventually terminated because of her union complaint and congressional complaint regarding schedule issues and general harassment. Appellant noted that due to her complaints, C.K. was suspended and other people were investigated and either relieved or removed from their positions. She again explained that she suffered from service-related PTSD since 2006 and experienced anxiety, depressions, and flashback. Appellant noted that sometimes feeling overwhelmed prevented her from staying focused or concentrating, and she needed enough time to adjust. She noted that her impairments made it impossible for her to perform multiple tasks at the same time, and she would sometimes forget certain things, finding new tasks to be difficult if it required a lot of memorizing. Appellant asserted that management, including C.K., was aware of her impairments. She alleged that the constant change of schedules at work triggered her anxiety and stress. Appellant stated that C.K. continuously questioned her absence or lateness and remade her schedules while she was off and did not inform her of the changes, causing her to show up at work when she was not scheduled. This experience triggered flashbacks to her experience in the Army.

Appellant asserted that her FMLA request was not approved until she filed her congressional complaint. She acknowledged that she was absent for an extended period of time between May 30, 2016 and May 21, 2018 during her probationary period for medical reasons, but asserted that she never failed to demonstrate fitness for continued employment or give cause to terminate her. Appellant alleged that other employees were often absent, but management showed favoritism to other employees, giving them a set schedule or time off while refusing her either

option. She asserted that she was treated differently from other employees by management. Appellant stated that people were afraid of veterans with PTSD and suggested that C.K. and others might have acted in the ways they did because they were afraid of her. She indicated that she was a good employee and did her job without customer complaints.

By decision dated March 18, 2020, OWCP denied modification of its December 20, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁴ 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.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To establish an emotional condition causally related to factors of his or her federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to his or her condition; (2) rationalized medical evidence establishing that he or she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that his or her emotional condition is causally related to the identified compensable employment factors.⁷

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment.⁸ There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within the concept or coverage under FECA.⁹ 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

³ *Id.*

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *G.R.*, Docket No. 18-0893 (issued November 21, 2018); *George H. Clark*, 56 ECAB 162 (2004); *Kathleen D. Walker*, 42 ECAB 603 (1991).

⁸ *L.Y.*, Docket No. 18-1619 (issued April 12, 2019); *L.D.*, 58 ECAB 344 (2007).

⁹ *W.F.*, Docket No. 17-0640 (issued December 7, 2018); *David Apgar*, 57 ECAB 137 (2005).

compensable.¹⁰ However, disability is not compensable when it results from factors such as an employee's fear of reduction-in-force, or frustration from not being permitted to work in a particular environment or to hold a particular position.¹¹

For harassment or discrimination to give rise to a compensable disability under FECA, there must be evidence which establishes that the acts alleged or implicated by the employee did, in fact, occur.¹² Mere perceptions of harassment or discrimination are not compensable under FECA.¹³ A claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence.¹⁴ Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.¹⁵

ANALYSIS

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

Appellant has attributed her emotional condition in part to *Cutler*¹⁶ factors. She alleged that she was overworked. Appellant noted that she was asked to stay for an additional hour due to staffing shortage on January 10, 2017 and was placed on an extremely busy cash register for two days in a row in April 2017 despite her impairments. Pursuant to *Cutler*¹⁷ this allegation could constitute a compensable employment factor if appellant establishes that her regular job duties or a special assignment caused an emotional condition. The Board has held that overwork, when substantiated by sufficient factual information to corroborate appellant's account of events, may

¹⁰ *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976). In the case of *Lillian Cutler*, the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition under FECA. 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. On the other hand, when an injury or illness results from an employee's feelings of job insecurity *per se*, fear of a reduction-in-force or his or her frustration from not being permitted to work in a particular environment, unhappiness with doing work, or frustration in not given the work desired, or to hold a particular position, such injury or illness falls outside FECA's coverage because they are found not to have arisen out of employment.

¹¹ *Lillian Cutler*, *id.*

¹² *O.G.*, Docket No. 18-0350 (issued August 7, 2019); *K.W.*, 59 ECAB 271 (2007).

¹³ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *M.D.*, 59 ECAB 211 (2007); *Jack Hopkins, Jr.*, 42 ECAB 818, 827 (1991).

¹⁴ *J.F.*, 59 ECAB 331 (2008); *Robert Breeden*, 57 ECAB 622 (2006).

¹⁵ *T.Y.*, Docket No. 19-0654 (issued November 5, 2019); *G.S.*, Docket No. 09-0764 (issued December 18, 2009).

¹⁶ *Supra* note 10.

¹⁷ *Id.*

be a compensable factor of employment.¹⁸ The Board finds, however, that she submitted no evidence, such as witness statements, supporting her allegation that she was overworked. It is appellant's burden to submit the requisite factual evidence supporting her allegation that she was overworked, which he failed to provide.¹⁹ Thus, the Board finds that she has not established overwork as a compensable factor of employment.

Appellant's allegations regarding the assignment of work and modification of work schedule,²⁰ denial of her request for reasonable accommodation,²¹ termination of her federal service,²² the handling of leave requests and attendance matters,²³ disciplinary matters,²⁴ requests for medical documentation,²⁵ and the filing of grievances and EEO complaints²⁶ 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.²⁷ However, the Board has held that mere dislike or disagreement with certain supervisory actions will not be compensable absent error or abuse on the part of the supervisor.²⁸ For this reason, the Board finds that appellant has not established a compensable employment factor with respect to these administrative matters.

Appellant also alleged that she was harassed, discriminated against, and subjected to disparate treatment based on her disability, and also subjected to reprisals for filing a union complaint and congressional complaint by C.H. and other lead workers, which created a hostile work environment. To the extent that incidents alleged as constituting harassment or a hostile environment by a manager are established as occurring and arising from appellant's performance

¹⁸ *L.S.*, Docket No. 18-1471 (issued February 26, 2020); *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *W.F.*, Docket No. 18-1526 (issued November 26, 2019); *Bobbie D. Daly*, 53 ECAB 691 (2002).

¹⁹ *Supra* note 10; *see also D.T.*, Docket No. 19-1270 (issued February 4, 2020).

²⁰ *L.S.*, *supra* note 18; *V.M.*, Docket No. 15-1080 (issued May 11, 2017); *Donney T. Drennon-Gala*, 56 ECAB 469 (2005).

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).

²² *P.M.*, Docket No. 14-0188 (issued April 21, 2014); *C.T.*, Docket No. 09-1557 (issued August 12, 2010).

²³ *R.B.*, *supra* note 18; *B.O.*, Docket No. 17-1986 (issued January 18, 2019); *Lori A. Facey*, 55 ECAB 217 (2004); *Judy L. Kahn*, 53 ECAB 321 (2002).

²⁴ *E.M.*, Docket No. 19-0156 (issued May 23, 2019); *C.T.*, Docket No. 08-2160 (issued May 7, 2009).

²⁵ *D.W.*, Docket No. 19-0449 (issued September 24, 2019); *W.M.*, Docket No. 15-1080 (issued May 11, 2017).

²⁶ *B.O.*, *supra* note 23.; *James E. Norris*, 52 ECAB 93 (2000).

²⁷ *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

²⁸ *F.W.*, Docket No. 19-0107 (issued June 10, 2020); *B.S.*, Docket No. 19-0378 (issued July 10, 2019).

of her regular duties, these could constitute employment factors.²⁹ However, for harassment to give rise to a compensable disability under FECA, there must be evidence that harassment did in fact occur as alleged. Mere perceptions of harassment are not compensable under FECA.³⁰ Although appellant alleged that her supervisor and team leads engaged in actions, which she believed constituted harassment, discrimination, disparate treatment, and reprisals, she provided no corroborating evidence to establish her allegations.³¹ Thus, she has not established a compensable employment factor under FECA with respect to the claimed harassment and discrimination.

As the Board finds that appellant has not established a compensable employment factor, it is not necessary to consider the medical evidence of record.³²

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, as alleged.

²⁹ *W.F.*, *supra* note 18; *F.C.*, Docket No. 18-0625 (issued November 15, 2018); *Kathleen D. Walker*, *supra* note 7.

³⁰ *Supra* note 13. *See also M.S.*, Docket No. 19-1589 (issued October 7, 2020).

³¹ *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).

³² *See R.B.*, Docket No. 19-0434 (issued November 22, 2019); *B.O.*, *supra* note 23 (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).

ORDER

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

Issued: January 11, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board