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H.H., Appellant)	
)	
and)	Docket No. 25-0254
)	Issued: February 25, 2025
DEPARTMENT OF HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, Richmond, VA, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

On January 28, 2025, appellant filed a timely appeal from a January 2, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has met his burden of proof to establish that he sustained an emotional/stress-related condition on April 4, 2024, in the performance of duty, as alleged.

On July 4, 2024, appellant, then a 41-year-old transportation security officer (TSO), filed a traumatic injury claim (Form CA-1) alleging that, on April 4, 2024, he developed stress, post-traumatic stress disorder (PTSD), and anxiety while in the performance of duty. He asserted that

¹ 5 U.S.C. § 8101 *et seq.*

his supervisor tried to “set him up” during an operation so that he would get in trouble. Appellant did not stop work.

In an April 5, 2024 statement, B.L., an employing establishment lead TSO, described the interaction between appellant and his supervisor, M.A., on April 4, 2024. He noted that M.A. pulled a bag for appellant to image because it appeared to contain a massage roller. Appellant asked M.A. whether the item was “good to go” or not, and she replied that appellant should make the decision. He told the passenger that the item was good to go and returned it to the passenger. M.A. then left her position to obtain confirmation from another manager as to whether the item was permitted. B.L. noted that while M.A. was away, he logged in to her terminal to continue screening passengers and instructed appellant to work at another spot in the rotation.

In a July 31, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of additional evidence needed, including a detailed description of the implicated work factors, and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond.

OWCP subsequently received an undated narrative report by Dr. Jennifer Erickson, a psychologist, who noted that appellant related symptoms of depression and anxiety, which he attributed to an April 4, 2024 incident where his supervisor accused him of not performing his job correctly when he cleared an item that his supervisor said was okay to clear. Appellant related that he was upset by the dramatic way that the situation was handled. Dr. Erickson indicated that appellant attempted to work for the next two and one-half weeks and the stress of being at work, fear of retaliation, fear of getting set up to be fired, and fear of getting into trouble caused him to have panic attacks. She performed a mental status examination and diagnosed adjustment disorder with mixed depressed mood and anxiety.

In an April 5, 2024 statement, P.R., appellant’s coworker, related that on April 4, 2024, M.A. told her that she was going to “see what appellant would do about this item” (the massage roller). After appellant “cleared the item,” she observed M.A. speak with him and leave her post, after which M.A. did not return. P.R. indicated that she then requested that B.L. log in on M.A.’s terminal so they could continue to screen passengers.

In a May 6, 2024 note, Alexis Alexander, a social worker, indicated that appellant related issues at work with a supervisor, including harassment and micromanaging, which he alleged triggered PTSD, nightmares, and anger. She noted that he was requesting medication.

In a May 14, 2024 medical note, Dr. Jared M. Fisher, a Board-certified family medicine specialist, indicated that appellant felt depressed due to harassment at work and wanted to start taking medication. He diagnosed depression and prescribed medication.

In June 28 and July 15 and 31, 2024 notes, Kathryn Rich, a licensed social worker, noted that appellant related that he was experiencing nightmares, extreme anxiety, and an upset stomach, which he attributed to an incident at work where his boss tried to “set him up.”

In follow-up notes dated July 8 and August 12, 2024, Dr. Fisher indicated that appellant related complaints of worsening depression, nightmares, anxiety, and an inability to work, which he attributed to being unfairly targeted at work by a supervisor on April 4, 2024.

In an August 14, 2024 response to OWCP's development questionnaire, appellant described the April 4, 2024 incident and indicated that he believed M.A.'s actions were predatory, designed to make him feel incompetent, and could have gotten him fired. He related that he believed he was targeted due to his ethnicity and described instances of racial discrimination including coworkers making derogatory comments regarding how and what he eats, his accent, and how he smelled. Appellant also described an incident where a passenger threatened him during a security screening because the passenger assumed he had a disease. He indicated that he had a prior history of depression and had experienced anxiety attacks, panic attacks, and PTSD since April 4, 2024 which made him unfit for duty as a TSO.

In an August 21, 2024 attending physician's report (Form CA-20), Dr. Fisher diagnosed major depressive disorder, recurrent. He opined that appellant's condition was caused or aggravated by an employment incident, which he described as being targeted by a supervisor. Dr. Fisher indicated that he was disabled from work for six months, commencing April 4, 2024.

In a development letter dated August 26, 2024, OWCP requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded the employing establishment 30 days to respond.

OWCP thereafter received a May 6, 2024 statement by T.A., a supervisory TSO, who indicated that on May 3, 2024 appellant refused to work at the same security checkpoint as M.A. due to the April 4, 2024 incident. T.A. indicated that appellant related that if he was forced to work with M.A., he would clock out of work and go to the hospital. He requested that appellant complete a statement regarding his issues with M.A. T.A. related that appellant felt "messed up in the head" regarding M.A., including that being near her made him angry and sick to his stomach and that he had nightmares about punching her. Based upon those comments, he recommended that appellant undergo a fitness-for-duty evaluation.

In a May 7, 2024 statement, appellant related that for the past five years of his employment, M.A. micromanaged his job duties so that she could write him up. He related that "her trap" "set him up for deep trouble." Appellant indicated that he had nightmares about fist-fighting M.A., and that he lost trust in her as a supervisor.

In a May 8, 2024 management-initiated fitness-for-duty evaluation request form, C.C., an employing establishment transportation security manager, noted her review of the statements by appellant and T.A. She indicated that management was concerned that appellant may not be able to maintain focus and awareness while performing the duties of a TSO.

In a letter dated June 6, 2024, C.C. advised appellant that the office of the chief medical officer (OCMO) determined that he was temporarily not medically qualified for his TSO position. She notified him that he was not permitted to perform the duties of a TSO until cleared to do so by OCMO but that he could request a light-duty assignment, reasonable accommodation, or leave without pay.

In a September 25, 2024 response to OWCP's development questionnaire, T.E., an employing establishment workers' compensation coordinator and human resources specialist,

disputed that M.A. caused appellant's PTSD. She enclosed the employing establishment's TSO position description.

On October 9, 2024, OWCP received an undated letter wherein Dr. Fisher indicated that appellant was a 100 percent service-connected disabled veteran. Dr. Fisher diagnosed various medical conditions, including major depressive disorder, which he noted was 70 percent service connected.

On November 26, 2024, OWCP sent appellant's August 14, 2024 statement and a list of follow-up development questions to the employing establishment for its review and comment. It afforded the employing establishment 30 days for a response.

In a December 20, 2024 response, T.E. concurred that on April 4, 2024, M.A. removed a bin and commented to P.R. that she was going to see what appellant "would do with this item"; that M.A. marked the bin and removed it for further inspection at the computer station; that M.A. told appellant that she would leave the decision to him as to whether to clear the item; and that appellant inspected the item and allowed it to go with the passenger. T.E. denied that M.A. stopped the lane to get him in trouble. She also denied that appellant ever reported any incidents of racial discrimination or threats due to his nationality.

By decision January 2, 2025, OWCP denied appellant's emotional/stress-related condition, finding that the evidence of record was insufficient to establish that he actually experienced the employment incident as alleged.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,³ 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.⁴ 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.⁵

To establish a claim for an emotional condition in the performance of duty, an employee must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his or her condition; (2) medical evidence establishing that he or she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing

² *Id.*

³ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *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).

⁵ *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).

that the identified compensable employment factors are causally related to his or her emotional condition.⁶

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,⁷ the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under FECA. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within coverage of FECA.⁸ 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.⁹

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.¹⁰ However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.¹¹ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.¹²

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.¹³ Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.¹⁴

⁶ *R.B.*, Docket No. 19-0343 (issued February 14, 2020).

⁷ 28 ECAB 125 (1976).

⁸ *M.R.*, Docket No. 18-0305 (issued October 18, 2018); *Robert W. Johns*, 51 ECAB 136 (1999).

⁹ *D.I.*, Docket No. 19-0534 (issued November 7, 2019); *T.G.*, Docket No. 19-0071 (issued May 28, 2019).

¹⁰ 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).

¹¹ See *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *D.R.*, Docket No. 16-0605 (issued October 17, 2016); *William H. Fortner*, 49 ECAB 324 (1998).

¹² *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *Ruth S. Johnson*, 46 ECAB 237 (1994).

¹³ *R.D.*, Docket No. 19-0877 (issued September 8, 2020); *T.G.*, Docket No. 19-0071 (issued May 28, 2019); *Marlon Vera*, 54 ECAB 834 (2003).

¹⁴ *Id.*; see also *Kim Nguyen*, 53 ECAB 127 (2001).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he sustained an emotional/stress-related condition on April 4, 2024 in the performance of duty, as alleged.

Appellant has not attributed his emotional condition to the performance of his regular or specially assigned duties under *Cutler*.¹⁵ Rather he has alleged error and abuse on the part of his supervisor. Specifically, appellant asserted that M.A. targeted him when she pulled a passenger's bag containing a massage roller for him to image. However, the evidence of record is insufficient to substantiate that M.A.'s actions were arbitrary or unfair.¹⁶ In addition, 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.¹⁷ Consequently, appellant has not established a compensable employment factor with respect to administrative or personnel matters.¹⁸

As the evidence of record is insufficient to establish a compensable employment factor, the Board finds that appellant has not met his burden of proof.

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 his burden of proof to establish that he sustained an emotional/stress-related condition on April 4, 2024 in the performance of duty, as alleged.

¹⁵ *Supra* note 7.

¹⁶ *See G.M.*, Docket No. 17-1469 (issued April 2, 2018).

¹⁷ *M.E.*, Docket No. 21-1340 (issued February 1, 2023); *T.C.*, Docket No. 16-0755 (issued December 13, 2016).

¹⁸ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the January 2, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 25, 2025
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board