

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

T.W., Appellant)	
)	
)	
and)	Docket No. 25-0487
)	Issued: June 18, 2025
U.S. POSTAL SERVICE, ONTARIO TERMINAL HANDLING SERVICES, Ontario, CA, Employer)	
)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 17, 2025 appellant filed a timely appeal from an April 1, 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish an aggravation of a preexisting emotional/stress-related condition in the performance of duty on July 1, 2023, as alleged.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On December 9, 2023 appellant, then a 54-year-old transportation specialist, filed a traumatic injury claim (Form CA-1) alleging that on July 1, 2023 she sustained an exacerbation of preexisting post-traumatic stress disorder (PTSD) when she was subjected to a hostile work environment by the threats of a contractor employee while in the performance of duty. She stopped work on the alleged date of injury. On the reverse of the claim form, appellant's supervisor, B.B., indicated that appellant was not injured in the performance of duty and the injury was caused by employee's willful misconduct as she had initiated the argument with the contractor's employee.

During a July 13, 2023 "investigative interview" for absence without leave (AWOL) commencing July 1, 2023, appellant repeatedly responded to questions asked by the interviewer that she was a postal employee and would not be involved in or create a hostile environment. The interviewer indicated that on July 1, 2023, L.R., a contractor coworker was conversing with a coworker, when appellant instructed her to go to the break room as the conversation was taking place in an office. He further indicated that the employees were not talking to appellant, that they were talking to each other, and that appellant initiated a conversation, quickly jumped out of her chair, such that it hit the wall, and walked toward L.R. in an aggressive way. Appellant asserted that she was stressed.

On October 20, 2023 Dr. Rachel Dajani, a Board-certified internist, opined that appellant was totally disabled due to an exacerbation of her chronic medical condition.

In a December 15, 2023 statement controverting the claim, K.R., an employing establishment manager, asserted that appellant initiated the hostility and that witness statements confirmed that she had confronted a coworker and escalated the situation. She further related that appellant was not in a position to give direct orders to any of the employees of the contractor and was aware of proper protocol.

In a development letter dated December 18, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical information needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate development letter of even date, it requested that the employing establishment provide additional information regarding the location of the alleged employment incident, whether appellant was performing official duties, and copies of any personnel actions. OWCP afforded the employing establishment 30 days for the submission of the requested information.

OWCP received additional evidence. On July 13, 2023 appellant sought treatment from Sherry Bernardino, a nurse practitioner. She related that appellant was currently receiving benefits from the Department of Veterans Affairs for 100 percent service-connected disability due to a major depressive disorder.

On July 17, 2023 appellant treated with Dr. Jonathan Heldt, a Board-certified psychiatrist, who reported that she had been experiencing stress due to a hostile work environment. She related that three weeks previously she had politely asked some of her coworkers to chat in a separate room as they were distracting her. Since then, appellant's coworkers have made derogatory, rude

comments, and one coworker had charged towards her as if she was going to physically strike appellant, such that another coworker had to intervene to prevent an altercation. Dr. Hedd diagnosed acute stress disorder, depressive disorder, and adjustment disorder.

In a January 17, 2024 statement, appellant alleged that on July 1, 2023 her office environment was loud and disrespectful as contractors were displaying inappropriate conduct, berating her with profanity, and provoking violence.

In a January 22, 2024 follow-up letter, OWCP advised appellant that it had conducted an interim review and found that the evidence remained insufficient to establish the factual circumstances of her claim. It noted that she had 60 days from the December 18, 2023 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

Appellant completed a statement on February 18, 2024 relating that on July 1, 2023 she was undertaking mandatory training. During her training, contractor employees in the same office became loud, rude, and disturbing. Appellant asked two of the contractor employees, L. R. and a friend, to take their conversation to the break area so that she could complete her training. L. R. then became louder, yelling at her that she could say what she wanted, using expletives, and becoming hostile. She stood and approached appellant in a threatening manner, continuing to curse, and accusing her of being crazy. L.R. called M., a supervisor, who loudly asked appellant what was happening. She then felt defenseless, unsafe, and on edge. Appellant did not know what could happen next. L.R. was allegedly asked to leave the building but instead charged at her as if to do bodily harm. M. stopped her. Appellant was conflicted as to whether to fight or flee. She left the building as she believed that L.R. would come back into the office to harm her. Appellant asserted that there was no security on the premises, that employees could have weapons in their vehicles, and that anyone could access the building.

Appellant related that she had previously spoken to the contractors' supervisor regarding the need for respect and professionalism at the employing establishment. She alleged that there was constant profanity and derogatory comments shouted in the workplace. Appellant alleged that L.R.'s actions constituted a hostile work environment. She further implicated an incident on November 27, 2012 when she refused to accept a load from a contract driver. The contractors' supervisor then entered a restricted area and began pointing his finger in appellant's face while screaming at her. Appellant informed him that he should not be in the area and her employees caused him to back away. She requested help *via* radio, but it was delayed for more than 30 minutes. Appellant also provided additional medical evidence.

On November 27, 2012 D.S., a coworker, submitted a statement relating that on that date, a driver became agitated and angry after appellant refused his shipment. The driver entered the cage with her and was loud, threatening, and abusive. Appellant asked him to back away, but he refused to leave until she threatened to call the police. On November 28, 2012 B.P., a coworker, submitted a statement reiterating that on November 27, 2012 appellant asked a driver to leave and that he became loud and angry. In a December 5, 2012 statement, L.G., a coworker, confirmed the events of November 27, 2012.

By decision dated February 27, 2024, OWCP denied appellant's traumatic injury claim, finding that she had not met her burden of proof to establish an emotional/stress-related condition in the performance of duty, on July 1, 2023, as she had not established a compensable employment factor. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 28, 2024 appellant requested reconsideration of the February 27, 2024 decision. She contended that the employing establishment had failed to provide the results of any investigation into the events of July 1, 2023. Appellant further related that the charge of AWOL was subsequently overturned. She provided documentation that her charged AWOL as converted to sick leave.

Appellant also provided a series of e-mails in support of her request for reconsideration. On July 1, 2023 she e-mailed managers, B.M. and B.B., advising that she had requested that L.R. take her conversation to the breakroom and that L.R. had declined, cursing and asserting that she had freedom of speech. Appellant related that manager M. was called to the office, and she asserted that the room was an office not a breakroom. L.R. directed appellant to show some respect, and M. had to hold back L.R. to prevent her from approaching appellant. Managers S. and M. then walked L.R. out. Appellant asserted that the workplace had become hostile as an employee who worked the break operation and had completed her shift, stayed in the office to talk. She requested the opportunity to work in a respectful environment.

In a March 19, 2024 e-mail addressed to appellant, C.Y., a coworker, indicated that she was present during an investigative interview with appellant and B.B., during which she informed B.B. that as appellant had alleged that there was an unsafe environment, B.B. was required to investigate. B.B. replied that due to appellant's position, she should have addressed the issue.

Appellant also provided documents from the employing establishment addressing workplace harassment.

OWCP continued to receive evidence. In a July 1, 2023 statement, L.R. asserted that she was speaking to B.D., a coworker, when appellant yelled at them, instructing them that the office was not a breakroom. She informed appellant that they were not bothering her, that she did not have to be disrespectful, and that she could have communicated in a different tone. L.R. alleged that appellant then arose from her chair and raised her voice. She did not like the fact that appellant came closer to her and stood up while behind a table. L.R. related that appellant further instructed her to go outside on the floor and to keep working. She informed appellant that she could not tell her what to do, used profanity, and leaned over the table while raising her voice, which disturbed appellant such that she moved away and used her telephone. L.R. called her manager, S., who reported to the office. Appellant continued to direct L.R. to leave while L.R. informed her that she was rude. Managers S. and M. removed L.R. from the office and walked her outside. L.R. related that she was defending herself and did not like the things that appellant told her with a loud voice, felt that she was disrespectful, and was in fear that appellant would hit her.

In a July 1, 2023 statement, B.D., related that she was conversing with L.R. in a low tone. Appellant then began to yell that the office was not a breakroom and that she was tired of hearing the conversation. L.R. replied that it was not necessary to raise her voice, and appellant then

“aggressively got up and pushed her chair back as if she wanted to fight” L.R. Appellant continued to yell to continue the argument. L.R. remained respectful and responded in a calm tone. Appellant continued to escalate the situation by directing L.R. to leave and making negative comments. L.R. then called for a manager.

On July 1, 2023 S.H., a coworker, related that he had observed a quiet conversation between L.R. and another coworker while appellant was working at a computer. He left the room and when he returned, L.R., and appellant were talking. The conversation escalated with appellant yelling at L.R. because she had instructed her to show respect to the people in the warehouse. Appellant then instructed L.R. to leave, to go home, and never to show her disrespect again. Supervisors M. and S. walked L.R. out of the room.

In a July 1, 2023 statement, S.R., a coworker, related that she entered the office area and heard L.R. and appellant talking loudly. She related that the situation escalated quickly as appellant stood and walked toward L.R. L.R. then stood up and “proceeded to talk back.” Appellant loudly instructed L.R. to leave and to be quiet. L.R. replied that “she wasn’t going to let herself get disrespected.” The interaction did not progress beyond raised voices as the supervisors stopped it.

On July 1, 2023 N.D., a coworker, related that L.R. was involved in a calm and low toned conversation. Appellant then arose, threw her chair very aggressively, and began shouting as if she wanted to start a physical altercation. L.R. stood and stated that appellant did not need to talk to the contractors like that. However, appellant continued to escalate the situation. A supervisor came into the office and calmed the situation by taking L.R. outside. Appellant continued to bully L.R. by instructing her to go cry.

By decision dated April 18, 2024, OWCP denied modification of its February 27, 2024 decision.

On May 13, 2024 appellant requested reconsideration. In an April 24, 2024 e-mail, T.T., a former employee, asserted that the employing establishment lacked office space and quiet workplace as the computer was in the lunch or breakroom. She further alleged that contractor employees would congregate, speak loudly, and use profanity. T.T. noted that Manager S. failed to provide discipline or structure.

In an e-mail on April 20, 2024, T.C., a former coworker, related that contract employees at the employing establishment frequently talked loudly and used profanity. She asserted that contractor managers did not address poor behavior.

Appellant completed a May 13, 2024 narrative statement and disputed the allegations that she began the hostile interactions, reiterating that L.R. became hostile and yelled at her. She further asserted that she was engaged in mandatory postal training, that she attempted to address the disruptive behavior of contract employees, and that her actions in leaving the building were a reasonable attempt to ensure her personal safety.

By decision dated June 18, 2024, OWCP denied modification.

On March 11, 2025 appellant requested reconsideration. She contended that additional documentation should be provided by the employing establishment including statements from the involved supervisors. Appellant noted that L.R. admitted to profanity, which was not mentioned in the other witnesses' statements, and that the supervisors found it necessary to escort L.R. from the room. She also provided additional medical evidence.

By decision dated April 1, 2025, OWCP denied modification.

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 filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty, as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury. 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.³

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.⁴

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.⁵ 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.⁶

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially

² *Id.*

³ *M.H.*, Docket No. 21-1297 (issued December 20, 2022); *C.V.*, Docket No. 22-0078 (issued November 28, 2022); *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *Gary J. Watling*, 52 ECAB 357 (2001).

⁴ See *C.C.*, Docket No. 21-0283 (issued July 11, 2022); *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁵ *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).

⁶ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

assigned work duties of the employee and are not covered under FECA.⁷ Where, however, 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.⁸

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.⁹ Mere perceptions of harassment or discrimination are not compensable under FECA.¹⁰

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.¹¹ 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.¹²

OWCP's regulations provide that an employing establishment who has reason to disagree with an aspect of the claimant's allegation should submit a statement that specifically describes the factual argument with which it disagrees and provide evidence or argument to support that position.¹³ Its regulations further provide in certain types of claims, such as a stress claim, a statement from the employing establishment is imperative to properly develop and adjudicate the claim.¹⁴

Verbal or physical altercations that occur because of disputes over work matters are covered as arising out of employment.¹⁵ There is no provision in FECA authorizing denial of

⁷ See *R.M.*, Docket No. 19-1088 (issued November 17, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

⁸ See *C.J.*, Docket No. 19-1722 (issued February 19, 2021); *M.A.*, Docket No. 19-1017 (issued December 4, 2019).

⁹ See *J.C.*, Docket No. 22-0254 (issued November 29, 2022); *E.G.*, Docket No. 20-1029 (issued March 18, 2022); *S.L.*, Docket No. 19-0387 (issued October 1, 2019); *S.B.*, Docket No. 18-1113 (issued February 21, 2019).

¹⁰ *A.E.*, *supra* note 6; *M.D.*, 59 ECAB 211 (2007); *Robert G. Burns*, 57 ECAB 657 (2006).

¹¹ *O.G.*, Docket No. 18-0359 (issued August 7, 2019).

¹² *Id.*

¹³ 20 C.F.R. § 10.117(a); *G.K.*, Docket No. 20-0508 (issued December 11, 2020); *D.L.*, Docket No. 15-0547 (issued May 2, 2016).

¹⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.7a(2) (June 2011) and Part 2 -- Claims, *Fact of Injury*, Chapters 2.803.4a(1)(b) and 2.803.7a (November 2023).

¹⁵ *S.R.*, Docket No. 25-0117 (issued February 3, 2025); *D.P.*, Docket No. 08-1903 (issued April 15, 2009); *Allan B. Moses*, 42 ECAB 575 (1991).

compensation because the employee was an aggressor or initiator or otherwise did something imputing culpability on his or her part.¹⁶

ANALYSIS

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

Appellant has alleged that she sustained an aggravation of a preexisting emotional/stress-related condition due to the verbal altercation with her coworker, L.R., on July 1, 2023. The Board has recognized the compensability of verbal physical threats in certain situations, but the factual aspects of such claimed altercations must be established in order to establish a compensable employment factor.¹⁷

OWCP has not adequately developed appellant's emotional condition claim.¹⁸ On December 18, 2023 it issued a development letter to the employing establishment requesting that it provide information regarding the location of the alleged employment incident, whether appellant was performing official duties, and copies of any personnel actions. The employing establishment, however, did not respond to the development letter. OWCP's procedures provide that when developing emotional condition claims, the claims examiner must obtain from the claimant, agency personnel and others, such as witnesses to the incident, a statement relating in detail exactly what was said and done.¹⁹

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter.²⁰ While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence, particularly when such evidence is of the character normally obtained from the employing establishment or other governmental source.²¹

The statements from appellant, L.R., and witnesses confirm that supervisors were involved in diffusing the situation and escorting L.R. from the office. The Board finds that without statements from Supervisors S. and M. OWCP did not appropriately develop this emotional condition/stress claim in keeping with its procedures.²² On remand, OWCP shall request that the employing establishment provide comments from knowledgeable supervisors responding to

¹⁶ *Id.*; *Barry Himmelstein*, 42 ECAB 423 (1991); *Robert L. Williams*, 1 ECAB 80 (1948).

¹⁷ *H.M.*, Docket No. 22-0433 (issued September 27, 2022).

¹⁸ *K.L.*, Docket No. 24-0871 (issued December 2, 2024).

¹⁹ Federal(FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.17(j) (July 1997).

²⁰ See *D.P.*, Docket No. 25-0199 (issued February 20, 2025); *A.M.*, Docket No. 24-0849 (issued January 1, 2025); *L.S.*, Docket No. 18-1208 (issued April 30, 2020); *Phillip L. Barnes*, 55 ECAB 426 (2004).

²¹ *K.R.*, Docket No. 24-0651 (issued August 28, 2024); *J.M.*, Docket No. 23-0735 (issued January 4, 2024); *D.G.*, Docket No. 23-0628 (issued September 22, 2023); *A.F.*, Docket No. 20-1635 (issued June 9, 2022); *N.S.*, 59 ECAB 422 (2008).

²² *Id.*; *R.D.*, Docket No. 22-1185 (issued February 6, 2025).

appellant's allegations and describing the events of July 1, 2023. Following this and other such further development, it shall issue a *de novo* decision.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the April 1, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 18, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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