

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

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**P.G., Appellant**

**and**

**U.S. POSTAL SERVICE, CLEVELAND POST  
OFFICE, Cleveland, OH, Employer**

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) **Docket No. 25-0555**  
) **Issued: June 20, 2025**  
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*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 28, 2025 appellant filed a timely appeal from an April 8, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

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

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the April 8, 2025 decision, appellant submitted additional evidence with her appeal to the Board. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **FACTUAL HISTORY**

On August 20, 2024 appellant, then a 53-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she developed stress due to factors of her federal employment, including reduced work hours following a traumatic injury<sup>3</sup> and sexual harassment. She noted that she first became aware of her claimed condition on October 29, 2021 and realized its relation to her federal employment on March 6, 2023. On the reverse side of the claim form, C.R., an employing establishment supervisor, noted that appellant last worked on April 29, 2024.

In an August 26, 2024 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond. In a separate development letter of even date, it also requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. OWCP afforded the employing establishment 30 days to respond.

OWCP thereafter received an August 20, 2024 statement by appellant, who indicated that she was diagnosed with schizoaffective depressive disorder, which she attributed to incidents that occurred at work in December 2020, May 2021, August 2021, and March 2023. She also noted that she filed a complaint with the Equal Employment Opportunity Commission (EEOC) in July 2021, which was adjudicated as an accidental touching, and that she was assaulted and sexually harassed at work on March 19, 2024. Appellant also related that her coworkers called her "gay," which caused her to have two mental breakdowns and require antidepressant medication.

In a narrative dated September 18, 2024, Dr. Tiffany Jones, a Board-certified psychiatrist, noted that appellant related complaints of depression, which "started after her injury on October 2021 [sic] even though her schizophrenia was diagnosed by a past psychiatrist years before the injury."<sup>4</sup> She indicated that she was interested in returning to her position as a mail handler and would like to start at 20 hours or two days per week and work her way up to full-time hours over a 12-month period. Dr. Jones diagnosed schizoaffective disorder, depressive type.

In a September 25, 2024 response to OWCP's development questionnaire, C.R., supervisor distribution operations, controverted appellant's October 29, 2021 claim. He indicated that her claims of misconduct were not substantiated by investigations or witness statements.

By decision dated October 28, 2024, OWCP found that appellant did not sustain an emotional condition in the performance of duty as the evidence did not support that she actually

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<sup>3</sup> Appellant previously filed April 14 and 21, 2024 traumatic injury claims (Form CA-1), which OWCP accepted for contusions of right shoulder and right elbow under OWCP File No. xxxxxx703 and xxxxxx973, respectively. She also filed a prior claim for a June 19, 2021 traumatic injury, which OWCP accepted for contusions of the left upper arm, left forearm, right hand, left lower leg, and left thigh; thorax strain; sprain and strain of the left shoulder; strain of the left arm; and strain of left lower leg under OWCP File No. xxxxxx762. OWCP has not administratively combined these claims.

<sup>4</sup> Dr. Jones' letter is dated August 18, 2024; however, it is clear from the context that this was a typographical error as he indicated he began treating appellant on September 18, 2024.

experienced the employment incidents, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On November 4, 2024 appellant requested a hearing before a representative of OWCP's Branch of Hearings and Review.

In a duty status report (Form CA-17) dated December 18, 2024, Dr. Dominic Haynesworth, a Board-certified emergency medicine specialist, diagnosed right elbow and right shoulder contusions due to an April 21, 2024 employment injury. He indicated that she was totally disabled from all work. Dr. Haynesworth checked a box marked "Yes" to indicate that interpersonal relationships were affected by a neuropsychiatric condition and noted a diagnosis of "schizoaffective."

A hearing was conducted on January 23, 2025. Appellant testified that her October 29, 2021 emotional condition claim was based upon being sexually assaulted at the employing establishment, which caused two mental breakdowns. She indicated that in December 2020 L. and B.R., her coworkers, and D.P, a supervisor, accused her of being gay; D.P. told other female employees to touch her buttocks; a female coworker touched her buttocks; and L. brushed against her breasts while walking past her. Appellant related that she reported the incidents to L.M., her plant manager, and was terminated on December 31, 2020. She noted that all temporary employees were laid off on December 31, 2020, and she was rehired in May 2021. Appellant indicated that in May 2021, a group of female employees ganged up on her and touched her breasts and buttocks. She related that C.C., a coworker, touched her lower back and buttocks, and that L.M. bumped into her buttocks and tried to blackmail her by refusing to give her hours unless she went on a date with him. Appellant indicated that she filed grievances and an EEO complaint for the unwanted touching.

OWCP thereafter received a series of grievant statements by appellant, who related that she was touched inappropriately on May 27, 2021 by L.K.; on May 29 and June 15, 2021 by A.W.; on June 13, 2021 by D.S. and another unknown employee; and on June 15, 2021 by C.C. She also claimed that on June 15, 2021 she participated in a meeting with D.L., D.R., and E.M. regarding her complaints. Appellant indicated that on June 19, 2021 E.M. told her to take herself to the emergency room and that S.C. and K.Y. asked whether she was trained during her prior employment. She also related that on June 22, 2021 H.C. gave her a 30-day work evaluation even though he had only been her supervisor for three days. Appellant also claimed that C.R. struck her arm on March 19, 2024 with his elbow.

OWCP also received an undated letter from K.H., an employing establishment EEO specialist, to appellant requesting to schedule an interview on or before July 10, 2021.

In a July 16, 2021 letter, the National Labor Relations Board provided appellant with a Charge Against Labor Organization form.

In a May 23, 2024 letter, the employing establishment noted that appellant requested a reasonable accommodation on March 29, 2023 and that a district reasonable accommodations committee (DRAC) met with her on May 10, 2023. In July 2023, she was granted a reasonable accommodation to work 20 hours per week for the purpose of enabling her to transition back to 40 hours per week over the course of six months. Appellant submitted another request for the same

accommodation on December 19, 2023 and had another DRAC meeting on January 3, 2024. During the January 3, 2024 meeting, she indicated that she had a schizoaffective disorder and post-traumatic stress disorder which prevented her from working more than two days per week. Appellant also submitted a December 13, 2023 note from Dr. Brittany Delasos, a Board-certified psychiatrist, in support of her request. The DRAC concluded that no reasonable accommodation would enable her to perform the essential functions of her position, noting that its prior approval of a restricted-hours accommodation for six months had not enabled or assisted her to transition to her full-time duties.

In a January 25, 2025 statement, appellant reiterated her claims of unwanted touching by L.M., D.P., B.R., and L. She also claimed that her co-worker W.C. said, “What’s up lady?” and hit her on the back, and that she was touched by a woman named M. Appellant related that she had mental breakdowns from August 30 through September 3, 2021, and March 6 through 2023. She also indicated that she was denied a return to work on October 4, 2022.

In a February 10, 2025 letter, Dr. Jones noted that she had reviewed appellant’s prior medical records, which documented that she was hospitalized in a mental facility from August 30 through September 3, 2021, and from March 7 through 21, 2023. She noted that “according to the records, patient felt the alleged abuse at the [employing establishment] contributed to her decompensating to necessitate the hospitalizations even though she had been diagnosed with schizophrenia in 2000.”

By decision dated April 8, 2025, an OWCP hearing representative affirmed the October 28, 2024 decision, as modified, noting that appellant had established that several incidents occurred, as alleged, including that her temporary clerk position ended on December 31, 2020 and she was rehired as a mail handler on May 24, 2021; that she participated in a meeting with C.C., D.L., D.R., and E.M. on June 15, 2021 after filing grievant statements in May 2021; that E.M. told her to take herself to the emergency room on June 19, 2021; that she was removed from her position because she was unable to perform the essential functions of her job; and that she was touched by other employees on various dates from May 27, 2021 through March 19, 2024 based upon contemporaneous grievant statements for each incident. However, the hearing representative found that appellant had failed to establish a compensable employment factor, noting that evidence of record was insufficient to establish that the incidents rose to the level of error, abuse, discrimination, harassment, assault, or retaliation.<sup>5</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>6</sup> 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

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<sup>5</sup> The hearing representative also instructed OWCP to administratively combine OWCP File Nos. xxxxxx762, xxxxxx973, and xxxxxx793 with the present claim.

<sup>6</sup> *Supra* note 1.

limitation of FECA,<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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 that the identified compensable employment factors are causally related to his or her emotional condition.<sup>10</sup>

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*,<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

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.<sup>14</sup> However, the Board has held that where the evidence establishes error or abuse on the part of the employing

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<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *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).

<sup>10</sup> *R.B.*, Docket No. 19-0343 (issued February 14, 2020).

<sup>11</sup> 28 ECAB 125 (1976).

<sup>12</sup> *M.R.*, Docket No. 18-0305 (issued October 18, 2018); *Robert W. Johns*, 51 ECAB 136 (1999).

<sup>13</sup> *D.I.*, Docket No. 19-0534 (issued November 7, 2019); *T.G.*, Docket No. 19-0071 (issued May 28, 2019).

<sup>14</sup> *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).

establishment in what would otherwise be an administrative matter, coverage will be afforded.<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup> Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.<sup>18</sup>

### ANALYSIS

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

Appellant has not attributed her emotional condition to the performance of her regular or specially assigned duties under *Cutler*.<sup>19</sup> Rather she has alleged that she sustained an emotional condition as a result of harassment, discrimination, and mishandling of her grievances and requests for reasonable accommodation. OWCP denied appellant's emotional condition claim on the grounds that she did not establish any compensable employment factors. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA.<sup>20</sup>

Appellant asserted that she was sexually harassed and inappropriately touched by named and unnamed co-workers and supervisors between December 2020 and March 19, 2024. The Board finds that her allegations were vague and nonspecific, and therefore insufficient to establish a compensable employment factor.<sup>21</sup> She did not submit witness statements or other corroborative evidence demonstrating that the harassment occurred, as alleged.<sup>22</sup> Therefore, appellant has not established a compensable employment factor with respect to these allegations.

Appellant also asserted that the employing establishment mishandled her grievances and reasonable accommodation requests. She claimed that on June 15, 2021 she participated in a meeting with D.L., D.R., and E.M. regarding her complaints. In a May 23, 2024 letter, the employing establishment noted in July 2023 it granted her a reasonable accommodation to work

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<sup>15</sup> 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).

<sup>16</sup> *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *Ruth S. Johnson*, 46 ECAB 237 (1994).

<sup>17</sup> *R.D.*, Docket No. 19-0877 (issued September 8, 2020); *T.G.*, *supra* note 13; *Marlon Vera*, 54 ECAB 834 (2003).

<sup>18</sup> *Id.*; see also *Kim Nguyen*, 53 ECAB 127 (2001).

<sup>19</sup> *Supra* note 11.

<sup>20</sup> *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>21</sup> See generally *T.G.*, Docket No. 19-1668 (issued December 7, 2020).

<sup>22</sup> See *B.S.*, Docket No. 19-0378 (issued July 10, 2018).

20 hours per week for the purpose of enabling her to transition back to 40 hours per week over the course of six months, which accommodation it could not continue after January 2024 because it had not enabled or assisted her to transition to her full-time duties. The Board has held that 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.<sup>23</sup> 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.<sup>24</sup> The evidence of record does not substantiate that her complaints or requests were in fact mishandled by the employing establishment. The Board finds no evidence to demonstrate that management's handling of her complaints or requests for accommodations was arbitrary or unfair.<sup>25</sup> Furthermore, although she expressed dissatisfaction with the actions of several superiors, 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.<sup>26</sup> The Board thus finds that appellant has not shown error or abuse by the employing establishment in the above-noted matter. Consequently, she has not established a compensable employment factor with respect to administrative or personnel matters.<sup>27</sup>

Appellant indicated that her temporary clerk position ended on December 31, 2020, and she was rehired as a mail handler on May 24, 2021. She testified that all temporary employees were laid off as of December 31, 2020. The Board, therefore, finds that appellant has not shown error or abuse by the employing establishment with respect to the December 31, 2020 layoff and May 24, 2021 rehire. Consequently, appellant has not established a compensable employment factor with respect to this administrative or personnel matter.<sup>28</sup>

Appellant also claimed that on June 19, 2021 E.M. told her to take herself to the emergency room and S.C. and K.Y. questioned whether she was trained during her prior employment. She also related that on June 22, 2021 H.C. gave her a 30-day work evaluation even though he had only been her supervisor for three days. In addition, appellant claimed that she was denied a return to work on October 4, 2022. These allegations are not supported by witness statements or other corroborative evidence demonstrating error or abuse by the employing establishment. Consequently, she has not established a compensable employment factor with respect to these administrative or personnel matters.<sup>29</sup>

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<sup>23</sup> *T.L.*, Docket No. 18-0100 (issued June 20, 2019); *Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, *supra* note 14.

<sup>24</sup> *J.W.*, Docket No. 17-0999 (issued September 4, 2018); *Ruth S. Johnson*, 46 ECAB 237 (1994).

<sup>25</sup> *See G.M.*, Docket No. 17-1469 (issued April 2, 2018).

<sup>26</sup> *M.E.*, Docket No. 21-1340 (issued February 1, 2023); *T.C.*, Docket No. 16-0755 (issued December 13, 2016).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

Accordingly, the Board finds that appellant has not established a compensable employment factor under FECA. Thus, she has not met her burden of proof to establish an emotional/stress-related condition in the performance of duty.

As the Board finds that appellant has not established a compensable employment factor, it is not necessary to consider the medical evidence of record.<sup>30</sup>

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/stress-related condition in the performance of duty, as alleged.<sup>31</sup>

### **ORDER**

**IT IS HEREBY ORDERED THAT** the April 8, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 20, 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

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<sup>30</sup> See *V.A.*, Docket No. 25-0375 (issued May 5, 2025); *B.O.*, Docket No. 17-1986 (issued January 18, 2019) (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).

<sup>31</sup> On return of the case record, OWCP may consider administratively combining appellant's other claim files with the present claim.