

² 5 U.S.C. § 8101 *et seq.*

ISSUE

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

FACTUAL HISTORY

On October 16, 2023 appellant, then a 52-year-old supervisor distribution operations, filed a traumatic injury claim (Form CA-1) alleging that on April 18, 2022 he suffered from a severe migraine and uncontrollable high blood pressure, while in the performance of duty.³ He related that he worked under enormous stress due to an uncooperative employee who was conniving with management. Appellant further related that the plant manager, turned down his physician's recommendation for a schedule change for effective medical attention. He alleged that these incidents led to more stress and 14 months of lost wages.

In an October 26, 2023 report of work status (Form CA-3), the employing establishment indicated that appellant stopped work on April 18, 2022 and returned to full-time, regular-duty work with no restrictions on April 19, 2022.

In a letter dated October 27, 2023, OWCP informed appellant that his traumatic injury claim would be converted into an occupational disease claim based on his explanation for the cause and nature of his claimed injury. In a development letter of even date, it informed him of the deficiencies of his occupational disease claim. OWCP advised appellant of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. It afforded him 60 days to submit the necessary evidence. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's statements. It afforded the employing establishment 30 days to submit the necessary evidence.

OWCP subsequently received additional medical evidence.

In a June 15, 2022 e-mail, A.M., the executive plant manager, advised appellant that unfortunately no reasonable accommodation could be granted based on the information provided. He then asked appellant to provide the work schedule he applied for when he began working at the employing establishment and the date of his application, and his work schedule when he was detailed to the logistics department from September 2021 through April 2022.

In a November 7, 2023 response to OWCP's October 27, 2023 development letter, appellant contended that A.M. disregarded his health and turned down his physician's recommendation. He reiterated his prior contention that he lost 14 months of income.

³ OWCP assigned the present claim OWCP File No. xxxxxx096. Appellant had also filed a duplicate claim, assigned OWCP File No. xxxxxx912. OWCP has administratively combined appellant's claims with OWCP File No. xxxxxx096 serving as the master file.

In a November 20, 2023 report of work status (Form CA-3), the employing establishment indicated that appellant stopped work on April 29, 2022 and returned to full-time, regular-duty work on June 26, 2023.

In a letter dated November 25, 2023, E.C., an employing establishment occupational health processing specialist, responded to OWCP's October 27, 2023 development letter noting that the employing establishment did not concur with appellant's allegation that he suffered from severe migraine and uncontrollable high blood pressure because management declined to request a schedule change. She related that he presented medical documentation dated April 18, 2022 to stop work, but continued to work in a detail assignment in the logistics department until April 28, 2022. E.C. noted that appellant called off work on April 29, 2022 and stopped work. She further noted that he had to complete deadlines and supervise employees as a supervisor. E.C. also noted that appellant was in the assignment detail prior to the filing of his claim and after the assignment ended on April 28, 2022, he did not return to work in his position noted in his notification of personnel action (Standard Form (SF) 50). Additionally, she noted that his regular work schedule was an overnight shift, and he worked an overnight shift when he worked on the detail assignment. Appellant had no complaints about his schedule until he presented the April 18, 2022 medical documentation. E.C. indicated that he was entitled to two 15-minute breaks and a 30-minute lunch each day on his shift.

In a development letter dated November 28, 2023, OWCP requested that appellant submit additional medical evidence in support of his claim.

OWCP thereafter received additional medical evidence.

By decision dated January 31, 2024, OWCP converted appellant's traumatic injury claim to an occupational disease claim and denied it, finding that the medical evidence of record was insufficient to establish causal relationship between a medical condition and the accepted factors of his federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

OWCP continued to receive medical evidence.

On March 1, 2024 appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated April 22, 2024, OWCP's hearing representative set aside the January 31, 2024 decision and remanded the case for further development. The hearing representative explained that the January 31, 2024 decision denying appellant's claim based on his failure to establish causal relationship, was incorrect as the evidence of record was insufficient to establish fact of injury because appellant failed to provide a detailed description of how his claimed injury occurred. On remand, the hearing representative instructed OWCP to make findings of fact and issue a *de novo* decision.

By *de novo* decision dated May 8, 2024, OWCP denied appellant's emotional condition claim, finding that he had not established a compensable employment factor and, therefore, had not sustained an injury in the performance of duty.

On June 6, 2024 appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Counsel also submitted a partial copy of an Equal Employment Opportunity (EEO) investigative affidavit dated September 30, 2022, wherein M.O., appellant's supervisor, advised that appellant's request for reasonable accommodation included no work at night or around people. She further advised that his requested accommodation would not have allowed him to perform his work duties based on the position description for a supervisor of distribution operations, whose functional purpose was to supervise bargaining unit employees performing processing and distribution activities. M.O. related that she was not sure as to the decision from the employing establishment's district reasonable accommodations committee regarding appellant's request for reasonable accommodation. Additionally, she related that she was not sure as to whether appellant could perform his job as a supervisor if he could not be around people.

Counsel submitted a copy of appellant's official position description for supervisor distribution operations.

In a June 6, 2024 statement, appellant related that on April 18, 2022 and prior to that date, he was employed as a work unit supervisor at the employing establishment. He alleged that he had an excessive workload due to working in an understaffed, stressful, and time-sensitive environment. Appellant asserted that the stressful work environment on April 18, 2022 and prior to that date caused him to suffer from anxiety, hypertension, and migraines.

In an undated statement, appellant described his duties as a tour 1 dock supervisor, which included supervising 26 mail handlers, scheduling powered industrial truck (PIT) drivers, monitoring assigned mail handlers, ensuring that operational process between the two floors of the building dock was safe and staffed to capacity for mail processing, coordinating mail flow activities with all other processing unit supervisors, disseminating dock condition and mail volume to other supervisors and the manager distribution operations, supervising the on-the-job training program for processing and distribution employees on the assigned tour, preparing accident reports involving PIT drivers and mail handlers on the dock and ensuring compliance with safety regulations and energy conservation practices, and meeting with the union regarding grievances, disagreements, disciplinary action with any condescending employees. He contended that the majority of the employees did not feel comfortable with taking directives from him due to the disparity in culture. The employees who were close to appellant's manager made up stories to get him punished. Appellant noted that he was sent home three times within two months by his manager to embarrass him in the presence of his subordinates. He alleged that on several occasions M.O. pulled mail handlers for designated location without his notice in an attempt to disrupt the process in his charge. Appellant indicated that during most of the night he had to juggle between supervising uncooperative employees and covering for a short-staffed operation process.

Following a preliminary review, by decision dated July 26, 2024, OWCP's hearing representative set aside the May 8, 2024 decision and remanded the case for further development as to whether appellant had established a compensable factor of his federal employment. On remand, the hearing representative instructed OWCP to request that the employing establishment

review and comment on appellant's allegations. Following this and other such further development as deemed necessary, OWCP was to issue a *de novo* decision.

In a development letter dated July 31, 2024, OWCP requested that the employing establishment comment on appellant's allegations.

In a response dated August 30, 2024, L.H., an employing establishment occupational health processing specialist, related that since appellant worked on a detail assignment in the logistics department for almost one year, she was unaware that he was overworked or worked in an understaffed environment. She noted that when the detail assignment ended, he never reported back to the operations department because he submitted documentation to be off work. L.H. was also not aware that appellant had any issues with uncooperative employees, or that he was punished. Furthermore, she was not aware that he had experienced any embarrassing moments.

By *de novo* decision dated September 12, 2024, OWCP again denied appellant's emotional condition claim, finding that he had not established a compensable employment factor, and, thus, had not sustained an injury in the performance of duty.

On October 9, 2024 appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. Counsel contended that the September 12, 2024 decision should be reversed, and appellant's emotional condition claim should be accepted.

In an October 9, 2024 statement, appellant attributed his emotional condition to additional work incidents. He contended that A.M. denied the recommendation of Dr. Oanan Nisipeanu, an attending Board-certified family practitioner, to change his schedule in retaliation for filing an EEO complaint against M.O. for missing overtime payments and discrimination. Appellant noted that after A.M. denied several of his physician's requests for a schedule change, he forwarded his request for reasonable accommodation in April 2022, which was not approved until June 2023. He asserted that A.M. maliciously undermined Dr. Nisipeanu's treatment to resolve his severe migraine and uncontrollable high blood pressure condition, which originated from work stress by rejecting the physician's recommendation. Appellant further asserted that retaliation by A.M. and M.O. caused two emergency episodes he experienced while waiting 14 months for a decision regarding his request for reasonable accommodation. He maintained that their decision was a calculated attempt to destroy him and cause him financial distress.

By decision dated February 18, 2025, OWCP's hearing representative affirmed the September 12, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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

⁴ *Supra* note 2.

limitation of FECA,⁵ that an injury was sustained while 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.⁶ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁷

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.⁸

Workers' compensation law does not apply to 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.⁹ 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.¹⁰

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.¹¹ 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.¹²

⁵ *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *M.H.*, Docket No. 23-0467 (issued February 21, 2024); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

⁷ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *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).

⁹ *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).

¹⁰ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

¹¹ *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).

¹² *L.R.*, Docket No. 23-0925 (issued June 20, 2024); *M.A.*, Docket No. 19-1017 (issued December 4, 2019).

To the extent that, disputes and incidents alleged as constituting harassment by coworkers are established as occurring and arising from a claimant's performance of his or her regular duties, these could constitute employment factors.¹³ 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.¹⁴ Mere perceptions of harassment are not compensable under FECA.¹⁵ A claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence.¹⁶

ANALYSIS

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

Appellant has attributed his emotional condition to being overworked and working in an understaffed, stressful, and time-sensitive environment. Specifically, he indicated that employees made up stories to get him punished by his manager. Appellant described his job duties as a tour 1 dock supervisor, which involved supervising uncooperative employees and an on-the-job training program for processing and distribution employees, preparing accident reports, meeting with the union regarding grievances, disagreements, disciplinary action involving employees, and covering for a short-staffed operation process.

The Board has held that overwork, when substantiated by sufficient factual information to corroborate appellant's account of events, may constitute a compensable factor of employment.¹⁷ In support of his contention, appellant submitted the job description for a supervisor distribution operations whose functional purpose was to supervise bargaining unit employees performing processing and distribution activities. While he asserts that he had to supervise employees and a training program, and handle union matters, this was consistent with his job descriptions as a tour 1 dock supervisor and supervisor distribution operations and does not demonstrate that he was overworked. Appellant also did not provide specific dates or other details to establish overwork.¹⁸ In a letter dated November 25, 2023, E.C., an employing establishment occupational health processing specialist, indicated that as a supervisor appellant

¹³ *T.L.*, Docket No. 18-0100 (issued June 20, 2019); *M.R.*, Docket No. 18-0304 (issued November 13, 2018); *David W. Shirey*, 42 ECAB 783, 795-96 (1991); *Kathleen D. Walker*, 42 ECAB 603, 608 (1991).

¹⁴ *See K.F.*, Docket No. 23-0278 (issued August 7, 2023); *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).

¹⁵ *Id.*

¹⁶ *See J.R.*, Docket No. 20-1382 (issued December 30, 2022); *L.J.*, Docket No. 20-0998 (issued December 14, 2022); *S.G.*, Docket No. 22-0495 (issued November 4, 2022); *J.F.*, 59 ECAB 331 (2008); *Robert Breeden*, 57 ECAB 622 (2006).

¹⁷ *See J.F.*, Docket No. 25-0100 (issued January 10, 2025); *C.F.*, Docket No. 20-1070 (issued August 9, 2023); *L.S.*, Docket No. 18-1471 (issued February 26, 2020); *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *Bobbie D. Daly*, 53 ECAB 691 (2002); *T.M.*, Docket No. 15-1774 (issued January 20, 2016).

¹⁸ *See C.F.*, *id.*; *Y.J.*, Docket No. 15-1137 (issued October 4, 2016) (a claimant did not provide the requisite detail regarding specific dates and the duties she performed, which allegedly caused her stress).

was required to meet deadlines and supervise employees.¹⁹ She further noted that while appellant presented medical documentation to stop work on April 18, 2022, he continued to work until April 28, 2022, the end of his detail assignment. E.C. also noted that he had no complaint about his work schedule until after April 28, 2022. The Board therefore finds that appellant has not established overwork as a compensable factor of employment.²⁰

Appellant has also attributed his emotional condition to administrative and personnel actions. He alleged that management committed error and abuse with respect to various administrative/personnel matters. In particular, appellant claimed that A.M., the executive plant manager, and M.O., appellant's supervisor, disregarded his health and denied his requests to change his work schedule and for reasonable accommodation based on the recommendation of his physician, Dr. Nisipeanu, in retaliation for filing an EEO complaint against M.O. for missing overtime payments and discrimination. These allegations regarding denial of his requests to change his work schedule²¹ and for reasonable accommodation,²² and filing of EEO complaints²³ relate to administrative or personnel management actions. Appellant has not submitted corroborating evidence of error or abuse in these administrative matters.²⁴ Further, regarding appellant's request for reasonable accommodation, M.O. indicated that she was uncertain about the employing establishment district reasonable accommodations committee's decision regarding appellant's request for reasonable accommodation. In a June 15, 2022 e-mail, A.M. expressed his regret to appellant that reasonable accommodation could not be provided to him, but requested that he provide information regarding his work schedule when he first started work at the employing establishment, and when he was detailed to the logistics department. There is no indication that the employing establishment committed error or acted abusively in these administrative/personnel matters. Therefore, the Board finds that appellant has not established a compensable employment factor in this regard.

Regarding appellant's allegations of harassment and discrimination by his supervisors, A.M. and M.O. and his subordinates, the Board finds that his allegations are insufficient to constitute compensable employment factors.²⁵ As discussed above, he claimed that A.M. and M.O. disregarded Dr. Nisipeanu's recommendation in denying his requests to change his work

¹⁹ See *C.F.*, *supra* note 17; *A.L.*, Docket No. 17-0368 (issued June 20, 2018); *Bobbie D. Daly*, *supra* note 17.

²⁰ *C.F.*, *id.*

²¹ *N.H.*, Docket No. 14-0360 (issued October 6, 2016); *L.A.*, Docket No. 13-1544 (issued September 23, 2014); *Ronnie Montgomery*, Docket No. 05-1206 (issued September 8, 2005).

²² *J.A.*, Docket No. 23-1001 (issued July 2, 2024); *M.H.*, Docket No. 21-1297 (issued December 20, 2022); *B.T.*, Docket No. 20-1627 (issued January 11, 2023); *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).

²³ *J.A.*, *id.*; *M.H.*; *B.T.*, *id.*; *B.O.*, Docket No. 17-1986 (issued January 18, 2019); *James E. Norris*, 52 ECAB 93 (2000).

²⁴ *T.S.*, Docket No. 25-0141 (issued February 12, 2025); *Y.R.*, Docket No. 24-0612 (issued September 13, 2024); *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *R.V.*, Docket No. 18-0268 (issued October 17, 2018).

²⁵ *A.F.*, Docket No. 24-0952 (issued December 13, 2024); *E.F.*, Docket No. 24-0727 (issued October 25, 2024); *see generally T.G.*, Docket No. 19-1668 (issued December 7, 2020).

schedule and for reasonable accommodation in retaliation for filing an EEO complaint against M.O. Appellant further claimed that their decision caused his two emergency episodes and was a calculated attempt to destroy him and cause him financial distress. Additionally, he claimed that a majority of his employees did not feel comfortable taking directives from him based on a difference in racial culture and employees made up stories about him for which he was punished. Appellant noted that his manager sent him home three times within two months to embarrass him in the presence of his subordinates. He asserted that, on several occasions, M.O. pulled mail handlers for designated locations without providing him notice in an attempt to disrupt the process in his charge. Appellant did not submit witness statements or other corroborative evidence demonstrating that harassment and/or discrimination occurred as alleged.²⁶ In addition, he did not submit a final EEO decision on his complaint that he filed with respect to the alleged harassment and discrimination.²⁷ The Board therefore finds that appellant has not established a compensable factor of employment with respect to harassment and discrimination.²⁸

As the Board finds that appellant has not established a compensable employment factor, it is not necessary to consider the medical evidence of record.²⁹

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 an emotional/stress-related condition in the performance of duty, as alleged.

²⁶ *A.F., id.; E.F., id.; B.S.*, Docket No. 19-0378 (issued July 10, 2019).

²⁷ *See M.C.*, Docket No. 24-0655 (issued August 27, 2024); *M.E.*, Docket No. 21-1340 (issued February 1, 2023); *V.R.*, Docket No. 20-0689 (issued February 5, 2021); *B.S., id.*

²⁸ *B.S., id.*

²⁹ *See 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).

ORDER

IT IS HEREBY ORDERED THAT the February 18, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 5, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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