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B.S., Appellant)	
)	
and)	Docket No. 25-0431
)	Issued: May 21, 2025
U.S. POSTAL SERVICE, PROCESSING &)	
DISTRIBUTION CENTER, Jacksonville, FL,)	
Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On March 27, 2025 appellant filed a timely appeal from a March 27, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ 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.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish that she sustained an emotional condition in the performance of duty, as alleged.

FACTUAL HISTORY

On November 5, 2024 appellant, then a 37-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she developed stress, anxiety, depression, and migraines due to factors of her federal employment, including being threatened and assaulted at work. She noted that she first became aware of her condition on October 23, 2024 and realized its relation to her federal employment on November 1, 2024.

In a letter dated November 5, 2024, the employing establishment challenged appellant's claim on the basis that she had not alleged a compensable factor of employment and that she had failed to submit any medical evidence demonstrating causal relationship between her claimed conditions and factors of her employment.

In a November 6, 2024 development letter, OWCP notified appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond. No response was received.

In a separate development letter dated December 2, 2024, OWCP requested that the employing establishment obtain comments from a knowledgeable supervisor regarding appellant's allegations. It afforded the employing establishment 30 days to respond.

On December 31, 2024 the employing establishment requested that OWCP deny the claim because no medical evidence had been provided to support her allegations.

In a follow-up development letter dated December 31, 2024, OWCP acknowledged the employing establishment's response, but advised that it did not address appellant's allegation of being threatened and assaulted at work. It again requested the employing establishment obtain comments from a knowledgeable supervisor regarding appellant's allegations.

In a January 7, 2025 statement, J.W., a supervisor, related that appellant had not provided any medical documentation in support of her claim. He further related there was no credible evidence that appellant had been threatened or assaulted on October 23, 2024. J.W. recounted that appellant indicated she felt threatened because a social media page had been posted in the women's locker room, however, this post was not directed at appellant. He concluded that no physical altercation or threatening words had been exchanged with any employee on October 23, 2024.

By decision dated January 7, 2025, OWCP denied the claim, finding that the evidence of record was insufficient to establish a compensable factor of employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On January 18, 2025 appellant requested reconsideration and submitted additional evidence.

OWCP received an undated statement from appellant describing an October 23, 2024 incident. Coworker, "A." asked appellant if she had seen "the paper" regarding six coworkers who S.R., acting supervisor, wanted to fight. This coworker told appellant that S.R. did not like her and that the message was intended for her. Appellant was further told that S.R. attached the message to her shirt so that everyone could see it. Attached was a blurry photograph of the referenced item.

OWCP also received a November 1, 2024 statement from appellant, describing an incident that day involving T.F. Appellant alleged that T.F. attempted to bully her because she had requested a threat assessment of her friend, S.R. She alleged that T.F. first began verbally assaulting her out on the dock, and then followed her to her console, continuing to rage that she was going to "slap me, drag me, and fight me." Appellant told T.F. to leave her alone and that she was not going to be bullied. At this point, a union steward A.S. approached T.F. and told her to stop harassing appellant. T.F. then attempted to punch appellant while A.S. tried to restrain T.F. Other co-workers arrived and held T.F. to prevent her from hitting appellant. Subsequently, while T.F. was being removed from the area, she threw postal items in appellant's direction, but none of the items touched her. Appellant contacted the local police about the incident and was told to wait for the patrol officer. A.S. told appellant that her supervisor had taken both T.F. and appellant off the clock, and A.S. told appellant that T.F. was waiting outside in the parking lot to fight appellant. When the police arrived appellant's supervisor denied that anything had happened. Attached to her statement was a Tampa Police Department incident detail form, which indicated the call was for a threat, and that the suspect was "T." Appellant related that she was told by a police officer to seek an injunction.

In a January 13, 2025 report, Velma Pernermon Stevens, a licensed clinical social worker, recounted appellant was seen for anxiety and depression. She noted that appellant continued to show symptoms of depression, anxiety, and stress and recommended continued individual therapy sessions.

In a statement dated January 19, 2025, appellant alleged that the January 7, 2025 statement from J.W. was false and his signature was forged. She asserted that on October 23 and November 1, 2024 credible threats and assaults occurred against her by S.R. and T.F. According to appellant, S.R. walked around the facility wearing a shirt with threats directed at her, which were meant to intimidate and harass her. Appellant also alleged that S.R. had her best friend try to attack and bully her on November 1, 2024. She stated that J.W. was not present on either October 23 or November 1, 2024. C.B., a manager, was present on both dates, but she did not report the incidents to her because she was a friend of S.R. and T.F. Furthermore, C.B. refused to report any incidents which led appellant to contact the local police department.

OWCP also received November 22, 2024 e-mails between appellant and union representative J.B. indicating that appellant was concerned that management had moved her to tour 2, conflicting with her work and school schedule. J.B. questioned appellant regarding the alleged incidents, noting that he was unsure as to whether the union had any record of the events.

In a follow-up development letter dated March 12, 2025, addressed to the employing establishment, OWCP noted receipt of a January 7, 2025 statement from J.W., a supervisor, however, he had previously stated that he had not been present during either of the two days on which appellant alleged she was harassed and threatened. It again requested that the employing

establishment obtain comments from a knowledgeable supervisor regarding appellant's allegations.

In a March 21, 2025 statement, J.W. detailed a timeline of appellant's alleged incidents. On October 23, 2024 appellant did not report anything to management regarding the incident involving a picture in the women's locker room. The following day, she reported the incident to him. J.W. then discussed the incident with appellant noting no words were exchanged in the women's locker room regarding the picture and no specific names were listed identifying the six targeted individuals. On October 31, 2024 appellant informed management that she intended to file a complaint and investigation into a hostile work environment for the October 23, 2024 incident. J.W. further recounted that on November 1, 2024 appellant was involved in an altercation with T.F., a coworker, and both were sent home. On November 4, 2024 he interviewed both parties regarding the incident occurring on November 1, 2024. On November 10, 2024 appellant was relocated to another tour for her safety, pending an investigation of the alleged incidents. J.W. reported that appellant refused to work the new tour and stopped work. Appellant returned to her regular tour of duty December 15, 2024. No further incidents were reported and operations were normal. A circuit court order setting a hearing on a petition for injunction was submitted, however, all names and dates were blacked out.

In a March 22, 2025 statement, appellant reiterated her allegations. Regarding the October 23, 2024 incident, she added that J.W. informed S.R. on October 24, 2024 that her shirt was unprofessional. Regarding the November 1, 2024 incident, appellant related that all the witnesses to the incident with T.F. related that she was calm and told T.F. to leave her alone. She stated that she contacted the police because C.B. and S.R. were present and were part of the problem. On November 4, 2024 appellant requested an investigation by the Office of Inspector General (OIG). She was told not to return to her night shift on November 10, 2024 because if she did there would be consequences. Appellant alleged that management did not investigate her allegations. Next, she alleged that there have been many incidents with other employees since she returned to work on December 16, 2024, which had been disregarded. On February 14, 2025 appellant alleged her attacker attempted to speak with her and she told her to leave her alone.

By decision dated March 27, 2025, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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, 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

³ *Id.*

employment injury.⁴ 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.⁵

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.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.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 of workers' compensation.⁹ 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.¹⁰

An employee's emotional reaction to administrative or personnel matters generally falls outside of FECA's scope.¹¹ Although related to the employment, administrative and personnel matters are functions of the employer rather than the regular or specially assigned duties of the employee.¹² However, to the extent the evidence demonstrates that the employing establishment

⁴ *K.W.*, Docket No. 22-0877 (issued February 5, 2025) *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *Gary J. Watling*, 52 ECAB 278 (2001).

⁵ 20 C.F.R. § 10.115(e); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *see T.O.*, Docket No. 18-1012 (issued October 29, 2018); *see Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *See S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁷ 28 ECAB 125 (1976).

⁸ 5 U.S.C. §§ 8101-8193.

⁹ *A.F.*, Docket No. 24-0952 (issued December 13, 2024); *G.R.*, Docket No. 18-0893 (issued November 21, 2018). *Robert W. Johns*, 51 ECAB 136 (1999).

¹⁰ *Id.*

¹¹ *G.R.*, Docket No. 18-0893 (issued November 21, 2018); *Andrew J. Sheppard*, 53 ECAB 170, 171 (2001); *Matilda R. Wyatt*, 52 ECAB 421, 423 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon.*, 42 ECAB 566 (1991).

¹² *E.S.*, Docket No. 18-1493 (issued March 6, 2019); *C.M.*, Docket No. 17-1076 (issued November 14, 2018).

either erred or acted abusively in discharging its administrative or personnel responsibilities, such action will be considered a compensable employment factor.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 with probative and reliable evidence.¹⁶ Unsubstantiated allegations of harassment are not determinative of whether such harassment occurred.¹⁷

ANALYSIS

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

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 the alleged incidents are compensable employment factors under FECA.¹⁸ Appellant has not attributed her emotional condition to the performance of her regular or specially-assigned duties under *Cutler*.¹⁹ Rather she has alleged that she sustained an emotional condition as a result of harassment and threats, and that management committed error and abuse with respect to the employing establishment's failure to investigate her complaints of harassment and threats.

Appellant specifically alleged that, on October 23, 2024, she was informed by coworker "A." that a piece of paper had been found in the women's locker room containing a social media post in which S.R. stated she wanted to fight six coworkers. She alleged that she was told by "A." that she was one of the targeted coworkers. Appellant further alleged that she was also told that S.R. attached the piece of paper to her shirt so everyone could see it. The Board has held that, with regard to a claim that bodily harm was threatened, the evidence of record must support a finding that a specific threat occurred.²⁰ It is appellant's burden of proof to submit evidence to support that a specific threat of violence was made such that it affected the conditions of employment.²¹ The Board has previously explained that inappropriate remarks in the workplace,

¹³ *Id.*

¹⁴ *A.F.*, Docket No. 24-0952 (issued December 13, 2024); *S.B.*, Docket No. 18-1113 (issued February 21, 2019).

¹⁵ *Id.*

¹⁶ *S.G.*, Docket No. 22-0495 (issued November 4, 2022); *J.F.*, 59 ECAB 331 (2008); *Robert Breeden*, 57 ECAB 622 (2006).

¹⁷ *S.G.*, *id.*; *T.Y.*, Docket No. 19-0654 (issued November 5, 2019); *G.S.*, Docket No. 09-0764 (issued December 18, 2009); *Ronald K. Jablonski*, 56 ECAB 616 (2005); *Penelope C. Owens*, 54 ECAB 684 (2003).

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

¹⁹ *Supra* note 7.

²⁰ *See M.F.*, Docket No. 17-1649 (issued July 20, 2018).

²¹ *Id.*; *J.C.*, 58 ECAB 594 (2007); *Dorothy J. Williams*, 32 ECAB 665 (1981).

including a threat, which may have been made in jest, do not constitute a credible threat of harm.²² Regarding this incident, the Board finds that the circumstances surrounding the social media post, including the author, were vague and speculative. Appellant did not establish that the alleged threat was a specific threat made against her. J.W., an employing establishment supervisor controverted appellant's allegation, indicating that no physical altercation or threatening words had been exchanged with any employee on October 23, 2024. The Board thus finds that, as appellant has not established that she was specifically presented with a credible threat on October 23, 2024, there is no compensable factor in this regard.

Appellant has further alleged threatening behavior by S.R. and T.F. In response to her request for a threat assessment, on November 1, 2024, T.F., a friend of S.R. began to call her names and taunt her on the dock. T.F. followed appellant into the building and made additional threats indicating that she would slap, drag, and fight her. According to appellant, A.S., a union steward held T.F. back to prevent her from hitting her. T.F. attempted to throw postal objects at appellant, but missed. Appellant called the police, who advised her to file an injunction. While she has outlined allegations against T.F., she has not submitted corroborative evidence, such as witness statements or other documentary evidence, in support of her allegations that the November 1, 2024 incident occurred as alleged.²³ While she alleged that A.S., a union steward was present as T.F. taunted her, as well as several other coworkers, appellant did not provide a witness statement from A.S., the union steward, or from any of the other coworkers who allegedly witnessed the incident. Appellant also did not submit any documentation that she had provided written notice of the incidents to management. She prepared a November 1, 2024 e-mail to herself relating the alleged events of that day, but there is no evidence of record that appellant documented the events for the employing establishment. Rather, appellant indicated that she did not want to relay her allegations to supervisor C.B., because C.B. was a friend of T.F. Further, while appellant did submit a police report noting a call for a threat on November 1, 2024, the report is largely illegible and does not provide any details regarding the alleged incident. The Board notes that OWCP requested, on December 2 and 31, 2024, that the employing establishment have a knowledgeable supervisor address appellant's allegations. J.W. responded to the requests as appellant had not informed C.B. of the allegations. In statements dated January 7 and March 21, 2025, J.W. recounted that there was no credible evidence that a physical altercation or threatening words occurred on October 23, 2024. He also related that an altercation occurred between appellant and T.F. on November 1, 2024, following which both were sent home. The Board has recognized the compensability of physical threats or verbal abuse in certain circumstances. This does not imply, however, that every statement uttered in the workplace will give rise to coverage under FECA.²⁴ Although the evidence of record establishes that a verbal altercation occurred between appellant and T.F. on November 1, 2024, there is no corroborating evidence that appellant was verbally assaulted with a credible threat on November 1, 2024.²⁵

Appellant has also alleged that the employing establishment failed to properly investigate the threats made against her. The evidence of record from J.W. establishes that appellant was

²² *Fred Faber*, 52 ECAB 107 (2000).

²³ *H.F.*, Docket No. 24-0375 (issued July 31, 2024); *D.B.*, Docket No. 23-0852 (issued February 16, 2024).

²⁴ *D.W.*, Docket No. 19-0049 (issued September 24, 2019); *see Charles D. Edwards*, 55 ECAB 258 (2004).

²⁵ *Supra* note 21.

transferred to another tour of duty, for her safety, while an investigation was conducted. However, appellant refused the new assignment and returned to her regular tour of duty on December 15, 2024. The Board, therefore, finds that appellant has not submitted evidence of error or abuse by the employing establishment. Therefore, there is no compensable factor in this regard.²⁶

As the evidence of record is insufficient to establish an emotional condition in the performance of duty, as alleged, the Board finds that appellant has not met her 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 her burden of proof to establish that she sustained an emotional condition in the performance of duty, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the March 27, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 21, 2025
Washington, DC

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

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

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

²⁶ *R.B.*, Docket No. 19-1256 (issued July 28, 2020); *D.G.*, Docket No. 17-0514 (issued May 4, 2018).