

indicated that she had PTSD as a result of her experiences in the first Gulf War. Appellant related that she worked in a stressful, demanding and fast-paced job. She experienced difficulty coping with her position, even though she was on limited duty.

On November 23, 2009 the Office requested that appellant submit additional factual and medical information. In a response dated December 2, 2009, appellant related that her supervisor assigned her work when she reported for duty. She stated, "As soon as I go to the route assigned I am pressured to hurry and finish because there are more routes to be done." When appellant cased a route she was again "always being rushed and pressured by supervisor/management to get it done and go to the next route. I usually have to do (3-5) routes or more per day. They expect me to get it all done at one time.... I can never accomplish enough to satisfied (sic) management. It makes me feel useless & depressed." (Emphasis in original.) Appellant further related that carriers rushed her to get mail. She was also rushed when she carried express mail after routes were completed. Appellant stated, "Express mail have certain times to be delivered, so I sometimes don't get a lunch or breaks for the day. We also have scanners, we must scan everything and there's something new to do everyday, that's when my compulsions kick in and I check everything over & over again." (Emphasis in original.) Appellant experienced chronic pain from a physical condition that adversely impacted her mental problems. She was attacked when she first began delivering mail and "watched my back."²

The employing establishment responded, on December 17, 2009, to appellant's allegations. It noted that appellant worked light duty because of medical restrictions and was only given work within her medical restrictions. Her work included casing mail for up to six hours standing, delivering express mail, relays or packages less than 10 pounds for two hours intermittently, and to deliver mail to apartments or businesses if no stairs. It indicated that she was not affected by staffing shortages, that she was not required to work overtime, that she did not carry mail and that the mail volume had decreased. The employing establishment stated, "There are no aspects of the job that could be perceived as stressful. Because of medical limitations, she was not held to a standard with deadlines, etc. The employee was generally able to perform required duties within her documented medical restrictions."

In a January 2, 2010 response, appellant disagreed with the employing establishment's assertion that she did not have standards and deadlines. She maintained that management pressured her to get routes cased at particular times for the carriers and that she did have "set times, standards and deadlines." Appellant related that management questioned her when deliveries took longer than usual. She noted that she sometimes had bad days when she could not perform as usual. Management expected appellant to go to unfamiliar stations to work and "be done at a certain time and be back" without considering the amount of traffic, the weather and the fact that she would occasionally get lost. Appellant stated, "I was pressured to get back for Express Mail. I was always under pressure, which made me get frustrated and confused."

By decision dated March 15, 2010, the Office denied appellant's claim on the grounds that she did not establish an emotional condition in the performance of duty. It found that her reaction to her assigned duties was self-generated and thus was not a compensable work factor.

² Appellant also submitted medical evidence in support of her claim.

On appeal, appellant asserts that her physician told her that her employment aggravated her PTSD. He recommended that she stop work.

LEGAL PRECEDENT

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of the Act.³ On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.⁴

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, 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.⁵ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, it must base its decision on an analysis of the medical evidence.⁶

ANALYSIS

Appellant alleged that she sustained an emotional condition as a result of a number of employment incidents and conditions. The Office denied her emotional condition claim on the grounds that she did not establish any compensable employment factors. The Board must, therefore, initially review whether these alleged incidents and conditions of employment have been factually established and whether they are covered employment factors under the terms of the Act.

Appellant primarily attributed her emotional condition to stress from trying to meet deadlines and standards. She contended that managers and carriers pressured her to finish casing her assigned routes and that management also pressured her to get deliveries done as quickly as possible. Appellant further maintained that she had to deliver express mail within specific time frames and also had to use a scanner daily, which triggered her compulsions. Appellant submitted no witness statements in support of her allegations.

³ 5 U.S.C. §§ 8101-8193; *Trudy A. Scott*, 52 ECAB 309 (2001); *Lillian Cutler*, 28 ECAB 125 (1976).

⁴ *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁵ *M.D.*, 59 ECAB 211 (2007); *Dennis J. Balogh*, 52 ECAB 232 (2001).

⁶ *Id.*

In response to her contentions, the employing establishment maintained that she was only provided work within her medical restrictions. As such, she did not carry mail. It noted that her job was not stressful, that she was not required to work overtime and that she was not held to “a standard with deadlines.”

Appellant challenged the employing establishment’s contention that she did not work with deadlines and related that a supervisor told her that even though she was on limited duty, she was still expected to perform her work within time frames. She described pressure to complete tasks within certain time frames even if she was in an unfamiliar area and noted that she had times to be back to get express mail.

The Office found that appellant’s emotional reaction was self-generated because the actions taken by her supervisors and managers were within the scope of their duties and responsibilities. The Board, however, has long held that emotional reactions to situations in which an employee is trying to meet her position requirements constitutes a covered employment factor under the Act.⁷ Under *Cutler*, the Board has accepted an employment factor where “an employee experiences emotional stress in carrying out his employment duties, or has fear and anxiety regarding his ability to carry out his duties.” Key to this finding, however, must be a factual basis of the alleged employment factors. There must be evidence in the record that the stress encountered is not solely a perception of the employee but is based on factually established employment factors. The Board has regularly required evidence to verify these allegations.⁸

⁷ See *M.D.*, *supra* note 4; *Trudy A. Scott*, *supra* note 2.

⁸ *Supra* note 2 at 129. The Board has regularly required some evidence to verify the alleged employment factors. For example, in *Trudy A. Scott*, *supra* note 2 at 309, 314, appellant, a nurse specialist, filed an emotional condition claim due to working overtime, staff shortage, taking on additional scheduling duties and overcrowding of the hospital, among other things. The record consisted of appellant’s performance evaluations and witness affidavits verifying these duties and there was no evidence from the employing establishment disputing these factors. The Board found an employment factor. In *M.D.*, *supra* note 4 at 211, 213-14, 219, the Board found a factor of employment that appellant was having difficulty meeting his production standard. This fact was verified in the record through letters of warning, unacceptable performance ratings, along with statements of coworkers verifying his job duties. In *Penelope C. Owens*, 54 ECAB 684, 685 (2003), a distribution clerk with the U.S. Postal Service claimed an emotional condition due to her day-to-day duties, especially regarding errors she had made in weighing packages. The record established that due to her errors she had been removed from her work location and prohibited from future data entry. Such evidence established the factual basis of the alleged employment factors. The Board found an employment factor. In *Robert Bartlett*, 64 ECAB 664 (2000), the Board found that appellant had established an employment factor due to his working overtime. The fact of working overtime was verified by the employing establishment. The Board stated: “Where the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.” Further, in *Ernestine St. Pierre*, 64 ECAB 623, 626 (2000) appellant filed a claim alleging his panic attacks were based on his employment duties. He alleged that he felt pressure trying to fulfill his job requirements shortly after he was hired, that learning the new route was difficult and that at times he had to run to complete his routes on time. In this case, the employing establishment did not dispute the requirements of the job and thus they were found by the Board to be factually established. In *Ezra D. Long*, 46, ECAB 791 (1995) appellant alleged that his work duties were causing him stress. The Board found a compensable factor of employment as the employer verified an increase in appellant’s workload. In each of these cases, allegations of employment factors by a claimant were independently verified through witness statements, disciplinary actions or through statements of a claimant undisputed or verified by the employing establishment. *Cf.* cases where the Board found a claimant’s allegations not factually established. *Curtis Hall*, 45 ECAB 316, 323-24 (1994); *Daniel B. Arroyo*, 48 ECAB 204, 208 (1996); and *Ronald K. Jablanski*, 56 ECAB 616, 621-22 (2005).

According to the employing establishment, appellant's job duties consisted of casing mail for up to six hours standing, delivering express mail, relays or packages less than 10 pounds for 2 hours intermittently, and to deliver mail to apartments or businesses if no stairs. She attributed her stress directly to the performance of her employment duties.

The employing establishment disputed the fact that her job was stressful. It noted that appellant was not affected by staffing shortages; that she was not required to work any overtime; and that the mail volume had decreased. It noted: "There are no aspects of the job that could be perceived as stressful. Because of her limitations, she was not held to a standard with deadlines, etc." But the employing establishment did not dispute that she performed the alleged employment duties. Rather, it verified that she cased mail, did mail delivery to apartments and businesses and delivered express mail packages. Further, appellant specifically noted the use of a scanner, which she alleged was a new task that caused her stress, that other carriers rushed her to complete her work and that she was rushed when she carried express mail packages, a task which is by its nature time sensitive. Although the employing establishment generally disputed that appellant could be stressed in any way, it did not specifically dispute that she cased mail, delivered mail to apartment buildings and businesses, delivered express mail packages and used a scanner. Thus, she has established these duties as compensable employment factors.

As to whether appellant was pushed to hurry with her tasks or that the employing established put pressure on her to complete her task faster than she could, these allegations are not substantiated. The employing establishment specifically stated that she had no "standard with deadlines" and there were no letters of warning or other disciplinary actions in the record establishing her allegations of being unable to meet deadlines. Further, there are no witness statements by coworkers or other managers in the record establishing that she was pushed to perform her tasks faster than she was able or that she had been pushed to hurry in performing any of these tasks. Therefore, the Board finds these allegations to be unsubstantiated. There is no dispute, however, that she did have to perform her regular employment duties.

Where a claimed disability results from an employee's emotional reaction to her regular or specially assigned duties or to an imposed employment requirement, and these employment factors are factually established, a compensable factor of employment is established. The Board finds that appellant has established as a compensable employment factor under *Cutler* that she was required to case mail, deliver mail to apartment buildings and businesses, deliver express mail packages and use a scanner.⁹

Appellant additionally alleged that delivering mail caused her to feel afraid. She related that she was attacked when she first started working in mail delivery. The Board has recognized that unsafe work conditions may constitute a factor of employment.¹⁰ Appellant, however, has not submitted any evidence factually establishing that she was attacked delivering mail or that she was in any danger while performing the duties of her employment. Her emotional reaction is

⁹ *Supra* note 2.

¹⁰ *David S. Lee*, 56 ECAB 602 (2005).

thus considered self-generated as it resulted from her perception regarding her work environment.¹¹

As appellant attributed her emotional condition to the performance of her regular or specially assigned work duties, the case presents a medical question regarding whether her emotional condition resulted from the compensable employment factors. As the Office found that there were no compensable employment factors, it did not analyze or develop the medical evidence. The case will be remanded for this purpose.¹² After such further development as deemed necessary, the Office should issue a *de novo* decision on this matter.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the March 15, 2010 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: April 18, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹¹ *Id.*

¹² *See A.K.*, 58 ECAB 119 (2006); *Robert Bartlett*, *supra* note 7.