United States Department of Labor
Employees' Compensation Appeals Board

Y.J., Appellant	)	
and	)	**Docket No. 15-1137**
	)	**Issued: October 4, 2016**
DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, Denton, TX, Employer	)	

Appearances:
Debra Hauser, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 23, 2015 appellant, through counsel, filed a timely appeal from a November 14, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant met her burden of proof to establish an emotional condition in the performance of duty.

FACTUAL HISTORY

On February 27, 2014 appellant, then a 42-year-old emergency management specialist, filed an occupational disease claim alleging that she experienced extreme stress, anxiety attacks, musculoskeletal pains, chest pains, migraines, insomnia, trouble focusing, high blood pressure, and loss of appetite as a result of her federal employment.

In an attached statement, appellant reported that she first began to work for the employing establishment in Washington, D.C. on September 17, 2001 as the executive assistant for the employing establishment administrator. She stated that her job required her to be on call 24 hours a day and that she had to have a packed bag with her at all times in case she had to report to an alternate work location. Appellant discussed several disaster situations to which she responded and explained that while responding to these disasters she often worked 12 to 14 hours a day, 7 days a week, and got 4 to 5 hours of sleep. This work schedule would last for several months until the response phase was over.

In June 2007 appellant began to work in Region 6 of the employing establishment as a mission assignment manager when responding to disasters. Her responsibility was to issue life-sustaining, life-saving, and high priority tasks to other federal agencies and monitoring the funds for these tasks. Appellant stated that she felt overwhelmed when she had to respond to two disaster incidents in Texas and Louisiana at the same time. She reported that even though she was given employees to assist her, these employees were not trained so she had to train the employees and respond to the incident, which provided additional stress to her position. Appellant performed the job duties of her position as well as the duties of an action tracker, mission adjustment specialist, and project manager.

Appellant also contended that she worked in a hostile work environment under her former boss, W.F., and first line supervisor and operations integration branch chief, L.Y. She stated that W.F. told her coworkers that she did not wear underwear. Appellant reported that L.Y. called her an "oompa loompa," which is a racially derogatory term. She noted that she participated in a management inquiry requested by L.Y. and she contended that he was retaliating against her for complaints she had filed against him. Appellant stated that L.Y. intimidated and bullied her and her coworkers. L.Y. referred to himself as the "Bullet" and signed his e-mails as "Bulletproof." He also called her coworkers "cancers" and stated that he was going to act like a surgeon and cut the cancer from the organization. Appellant contended that he also spread false rumors about her that there was a restraining order against her and that she was going to be terminated from employment. She stated that he changed her management responsibilities by assigning some of her responsibilities to another employee even though appellant was more qualified. Appellant noted that in 2012 she was the only one who was not deployed during the response to Hurricane Isaac. She also stated that L.Y. claimed to have drug dogs that checked out his office for explosive devices. Appellant stated that she witnessed him searching his office and car for explosive devices and explained that these activities and his

failure to report dangerous activities, including someone bringing firearms, to security or to management, caused her fear.

Appellant stated that her physical and mental health suffered and that she had anxiety attacks about reporting to work. She complained of insomnia, loss of appetite, high blood pressure, diarrhea, headaches, and musculoskeletal pain due to stress from her job. Appellant explained that she and other coworkers worked in a very toxic, hostile work environment and feared for their safety. She stated that she was helping another coworker who had tried to commit suicide. The stress of helping the individual was also affecting her negatively.

By letter dated March 5, 2014, OWCP advised appellant that the evidence submitted was insufficient to establish her emotional condition claim. It requested that she provide a detailed, factual statement surrounding the work factors she believed caused or contributed to her condition and medical evidence from a physician explaining how her anxiety-related attacks were work related.

Appellant submitted e-mails between herself and C.F., an employing establishment administrator, and L.B., an employing establishment special agent, regarding filing a formal complaint against management. She stated that a coworker had made attempts to commit suicide and that another coworker almost had a car accident because that coworker was unable to focus due to stress from work. Appellant claimed to fear for her physical safety and the safety of others. She specifically noted that L.Y. had informed them that an explosive device was placed on his desk and that guns were frequently brought into the federal workplace. Appellant reported that L.Y. crawled on his hands and knees looking for bugs, drugs, and explosive devices in his office and his car. She stated that she was having nightmares about bomb explosions, being chased, and stabbed in the workplace.

In a January 31, 2014 e-mail, appellant informed C.F. that she and her fellow coworkers were being retaliated against for reporting the violence in their workplace. She explained that a coworker had made serious threats to commit suicide and her suicide letter blamed K.C., response division director. Appellant reiterated that another coworker had almost been in a car accident because of an inability to focus. She requested that she and her coworkers be transferred to another program area.

Appellant submitted e-mails dated March 2012 where she was initially given approval to attend a Regional Interagency Steering Committee (RISC) meeting scheduled for March 20 to 21, 2012. However, on March 19, 2012 L.L., senior operations specialist, advised her to stay at work and not attend the conference.

Appellant provided e-mails from January 2014 between herself and L.B. regarding her Equal Employment Opportunity (EEO) complaint and internal investigation into her hostile work environment. She advised that she had filed EEO complaints against L.Y. and K.C. for which she had suffered retaliation and discrimination. Appellant requested a meeting with L.B. and gave her the names of several witnesses. In a January 28, 2014 e-mail, she informed L.B. that she was out sick because the hostile work environment had taken a physical toll on her. Appellant explained that she had been having nightmares about bomb explosions in her workplace, being chased and stabbed in her workplace, and getting shot.

Appellant also submitted an e-mail dated October 1, 2013 from L.Y. which revealed that he used the name "Bulletproof" on his signatory.

Appellant provided a print-out of her employment history to establish that she was fully qualified to work as an action tracking specialist, mission assignment specialist, and mission assignment manager. The print-out also listed her duty tour dates and job titles from October 2005 to October 2013.

A March 11, 2014 e-mail from appellant to counsel reported that she had a nightmare about a bomb explosion in the annex, that one of her duties and responsibilities was assigned to another employee, and that attending EMI/MA classes was one of her duties but her supervisor at the time, R.G, sent another employee in her place. Appellant submitted an August 6, 2012 memorandum that listed employees' additional duties and responsibilities. She was indicated as the "primary" for EMI/MA classes.

In a February 13, 2014 statement, J.I., an employee of employing establishment operations, reported that in August 2012 he had been deployed to Baton Rouge, Louisiana to help with Hurricane Isaac and had to assemble staff from the affected region. He received a telephone call from appellant that she was deployed and she began to work as his mission assistant manager. A few days after appellant arrived in Baton Rouge, K.C. called J.I. and informed him that appellant had self-deployed and was to immediately leave the disaster area. J.I. sent appellant back to her district office. He also discussed that in October 2012 he had been deployed to New Jersey due to Hurricane Sandy and had appellant as one of his mission assistant managers. J.I. explained that a few days after appellant arrived he received more staff who advised him that they could not work with appellant because there was a restraining order against her.

L.D., a coworker, provided a February 15, 2014 statement. She related that she had worked for appellant for several years and that their work was very stressful as they responded to large national disasters. L.D. stated that appellant worked long hours without rest and meals. She pointed out that the employing establishment did not provide any psychological treatment before or after disasters. L.D. reported that appellant's supervisor, L.Y., had allegedly been diagnosed with post-traumatic stress disorder (PTSD) and that he reacted with bursts of rage. She noted that he had been seen crawling on the floor looking for microphones and explosives. L.D. stated that L.Y. referred to appellant and her coworkers as cancers that needed to be "done away with." She indicated that she was extremely concerned for appellant's safety and mental health and that she had requested many times for management to remove appellant from her office. L.D. referred to an incident when one of appellant's coworkers admitted that she attempted suicide due to the hostile work environment and had to be hospitalized. She related that on February 13, 2014 she and appellant began receiving text messages from that coworker about ending her life and that appellant stayed on the telephone with her for hours to talk her out of it. L.D. indicated that appellant cried all the time and was very depressed.

In a February 18, 2014 statement, M.B., appellant's coworker, reported that she had worked with appellant in the Operations Branch of the Response Division at Region 6 since 2005. She stated that it was common to work in excess of 100 hours per week and noted that appellant often worked 18 hours a day and got very little rest for months at a time. Ms. Brewer

indicated that appellant frequently went without meals because the operational tempo did not allow for breaks. She discussed that during deployments appellant would be away from family and friends and witnessed many disaster areas including floods, hurricanes, fires, and tornadoes. M.B. pointed out that the employing establishment did not provide psychological treatment for their employees, before or after disaster response. She was aware that appellant had issues with insomnia, anxiety attacks, chest pains, short attention span, trouble focusing, and a constant feeling of being overwhelmed but had never received treatment.

M.B. stated that in the fall of 2011 they were both deployed to Austin, TX in response to the wildfire emergency. During their deployment, their supervisor, L.Y. requested a management inquiry against several employees in their division because it was rumored that the employees were attempting to get rid of him. M.B. noted that she and appellant were both investigated. She confirmed that L.Y. referred to the employees of the Operations Branch as cancers that needed to be cut out. M.B. reported that she witnessed firsthand violent outbursts between L.Y. and other coworkers. She related that she had seen how easily L.Y. can become agitated and lose his temper. M.B. stated that L.Y. referred to himself as the "Bullet" and often signed his e-mails "Bulletproof," which she interpreted to mean that nobody could touch them. She also related that L.Y. told them that he often checked his office and car for drugs, IEDs, and explosives due to threats. M.B. alleged that she and her coworkers worked in a very hostile, violent, and toxic workplace and that she feared for her safety. She explained that even though she reported these incidents to upper management, no one did anything about the complaints.

In a February 18, 2014 statement, J.B., appellant's coworker, stated that L.Y. often bragged that he received disability from the Veterans' Administration for PTSD. He reported that L.Y. often reacted with outbursts of rage and was often seen searching his office and vehicle for explosive devices. J.B. indicated that L.Y. released documents with alarming language, including that he planned to remove those who were cancers to the employing establishment. He stated that L.Y. considered appellant to be one of the cancers that needed to be eradicated. J.B. discussed how appellant was petrified of what L.Y. was capable of and had confided to J.B. that she feared for her safety and the safety of her coworkers.

A.S. submitted a March 13, 2014 statement in which he noted that he had worked with appellant for four years in a very stressful career. He explained that as first responders, they often responded to large, national disasters, witnessed the aftermath of natural disasters, worked upwards to 12 or more hours a day with very little rest, and frequently went without meals. A.S. reported that as a member of the response division, appellant was on call 24 hours a day, 365 days a year and was required to respond to e-mails and telephone calls at all times. He stated that after returning from the Bastrop Wildfires disaster work, appellant and her coworkers were subject to a hostile work environment at Region 6 Operations Branch of the employing establishment. A.S. contended that one of the supervisors, L.Y., had made proactive efforts to isolate and direct an unprofessional aggression at various employees within the division and that appellant was one of his primary targets. He stated that L.Y. referred to removing those who were "cancers" from the organization and directed staff not to associate themselves with those whom he believed were disrupting the work. A.S. also pointed out that L.Y. suffered from PTSD and was seen inspecting his office and car for listening devices or bombs. He related that appellant had informed him that she feared for her safety and ensured her that her affairs were in order if something were to happen to her. A.S. stated that he had witnessed appellant's mental

anguish and discomfort from these unethical actions by leadership and that many of them were seeking counseling due to the hostile work environment fostered by the leadership.

Theresa Tucker, a licensed massage therapist, in a February 10, 2014 note stated that she had worked with appellant since February 2011 and related that appellant's muscular condition had steadily worsened. She indicated that appellant's stress level had increased in the past two years and she noticed hair loss and an increased Dawager's Hump.

In a February 21, 2014 report, Sat Kartar Khalsa, PhD., a clinical psychologist, related that appellant's chief complaint was that she had been through a lot of stressful situations in her disaster work but the "threat of violence in the workplace had pushed her over the edge." She discussed appellant's employment history and noted that, although appellant acknowledged experiencing emotional symptoms due to multiple deployments in order to assist survivors of natural disasters, she had not sought medical treatment until she experienced the hostile work environment regarding L.Y.

Dr. Khalsa diagnosed PTSD, major depressive disorder, and pain disorder associated with both psychological factors and a general medical condition. She opined that appellant appeared to be experiencing workplace-related stress and emotional distress due to a "chronic and pervasive hostile work environment." Dr. Khalsa explained that based on her objective findings it was her professional opinion that "as a direct result of the incidents described by appellant while in the performance of her duties with FEMA she sustained PTSD as well as major depressive disorder, single episode, severe." She stated that appellant's symptoms stemmed directly from the hostile work environment and indirectly from multiple disaster-related deployments.

On May 14, 2014 appellant submitted a March 12, 2012 inter-office memorandum from L.Y. He listed recommendations for improving morale in the response division. One of the recommendations was to "remove those who are cancers to the organization and its culture." Another memorandum entitled "Branch Chiefs Imperatives" described negative attitudes as cancer and instructed leaders to root it out.

Appellant also submitted e-mails from L.Y. where he signed "Bulletproof" in the signature block.

Appellant submitted pain management and physical therapy progress notes dated February 28 to May 9, 2014.

In a May 16, 2014 statement, appellant reported that while she was at work on May 15, 2014 she was informed of a malicious gossip/rumor that was being spread around Region 6 of the employing establishment that management was planning to terminate her position by the end of pay period 9. She alleged that the stress from this malicious gossip/rumor was taking a toll on her physical and mental health.

In a decision dated May 30, 2014, OWCP denied appellant's emotional condition claim. It determined that the evidence was insufficient to explain in detail how the alleged incidents had occurred and was insufficient to establish any diagnosed condition as a result of the alleged work factors.

On June 20, 2014 OWCP returned a call from appellant's counsel who had contended that the May 30, 2014 decision letter had not acknowledged all the evidence on file and that counsel had not been provided a copy of the decision at the time it was issued. It advised counsel that it would do a complete review of the case and either issue a decision accepting the claim or place it back under development for an additional 30 days.

By letter dated August 15, 2014, OWCP requested additional information from the employing establishment regarding the accuracy of appellant's statements relative to her emotional condition claim. It did not receive a response to its request.

Appellant continued to submit pain management and progress notes dated June 6 to October 13, 2014.

In a decision dated November 14, 2014, OWCP accepted that several of appellant's alleged incidents were factually established. It accepted that L.Y. had sent e-mails using a signatory line of "Bulletproof," that L.Y. had referred to appellant in a racially derogatory term "oompa loompa" during a response to Hurricane Isaac in August 2012, that appellant had been recalled from deployment, that during a response to Hurricane Sandy L.Y. had told coworkers that there was a restraining order against appellant and therefore she could not supervise them, that L.Y. had informed appellant and coworker Marsha Brewer that when drug dogs inspected their office it was because he believed someone planted drugs in his office, that L.Y. checked his car and his office for explosives and microphones, that L.Y. had stated in a sworn affidavit that a coworker placed an explosive device on his desk, and that it was rumored that the same employee routinely brought firearms to the workplace. OWCP found that these incidents, while factually established, were administrative in nature. It also listed the allegations which it had found had not been factually established.

OWCP denied appellant's emotional condition claim finding that appellant had not identified any compensable factors of employment. It concluded that personnel and administrative matters of an agency are not considered factors of employment and there had been no finding of agency error in any of the actions taken against appellant.

LEGAL PRECEDENT

To establish a claim that she sustained an emotional or stress-related condition in the performance of duty, an employee must submit: (1) factual evidence identifying the employment factors or incidents alleged to have caused or contributed to the condition; (2) medical evidence establishing that he or she has an emotional or stress-related disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to the condition.[3] If a claimant implicates a factor of employment, OWCP should determine whether the evidence of record substantiates that factor. Allegations alone are insufficient to establish a factual basis for an emotional condition claim and must be supported

[3] *V.W.*, 58 ECAB 428 (2007); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

with probative and reliable evidence. If a compensable factor of employment is established, OWCP must then base its decision on an analysis of the medical evidence.[4]

Workers' compensation law does not apply to each and every injury or illness that is somehow related to a claimant's employment.[5] 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.[6] 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 under FECA. Where an employee experiences emotional stress in carrying out her duties, or has fear and anxiety regarding her ability to carry out her duties, and the medical evidence establishes that the disability resulted from her 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 resulted from her emotional reaction to her day-to-day duties. The same result is reached when the emotional disability resulted from the employee's emotional reaction to a special assignment or requirement imposed by the employing establishment or by the nature of the work.[8]

On the other hand, when a disability results from an employee's feelings of job insecurity per se, fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or hold a particular position, unhappiness with doing inside work, or frustration in not given the work desired or hold a particular position, such disability falls outside FECA's coverage because they are found not to have arisen out of employment.[9] The only requirements of employment which will bring a claim within the scope of coverage under FECA are those that relate to the duties the employee is hired to perform.[10]

A claimant has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by the employment factors.[11] This burden includes the submission of a detailed description of the employment factors or conditions which she believes caused or adversely affected a condition for which compensation is claimed and a rationalized medical opinion relating the claimed condition to compensable employment factors.[12]

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[4] *G.S.*, Docket No. 09-764 (issued December 18, 2009).

[5] *L.D.*, 58 ECAB 344 (2007); *Robert Breeden*, 57 ECAB 622 (2006).

[6] *A.K.*, 58 ECAB 119 (2006); *David Apgar*, 57 ECAB 137 (2005).

[7] 28 ECAB 125 (1976).

[8] *Id.*; *see also Trudy A. Scott*, 52 ECAB 309 (2001).

[9] *William E. Seare*, 47 ECAB 663 (1996).

[10] *See Anthony A. Zarcone*, 44 ECAB 751 (1993).

[11] *See Pamela R. Rice*, 38 ECAB 838, 841 (1987).

[12] *See Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

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 work factors of employment and are not considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed compensable factors of employment and may not be considered.[13] If a claimant does implicate a factor of employment, OWCP should then consider whether the evidence of record substantiates that factor. As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim. The claim must be supported by probative evidence.[14]

ANALYSIS

Appellant has alleged that she experienced extreme stress, anxiety attacks, chest pains, insomnia, migraines, high blood pressure, and loss of appetite as a result of her work as an emergency management specialist for the employing establishment. OWCP denied her claim finding that appellant failed to establish a compensable factor of employment.

Appellant attributed her stress and anxiety to her actual work requirements when responding to disaster areas, which if factually established, would constitute a compensable factor under *Cutler*.[15] She related that her job required her to be on call 24 hours a day with a packed suitcase in order to be ready to report to a disaster area. Appellant alleged that when deployed to disaster situations she often worked 12 to 14 hours a day, 7 days a week, and only got 4 to 5 hours of sleep. She reported that this work schedule lasted for several months until the response phase of the disaster was complete. Appellant explained that her role as Mission Assignment Manager was to issue life-sustaining, life-saving, and high priority tasks to other federal agencies and to monitor the funds for these, and she felt overwhelmed when she had to respond to two disasters in Texas and Louisiana at the same time. The Board finds that while appellant has alleged that she worked long hours with very little rest when deployed to disaster areas, she has not factually established these allegations, with the specificity necessary to establish a compensable factor of employment.

As a rule, allegations alone by a claimant are insufficient to establish a factual basis for an emotional condition claim. In claims for an emotional condition attributed to work-related stress, the claimant must specifically delineate those factors or incidents to which the emotional condition is attributed and submit supporting factual evidence verifying that the implicated work situations or incidents occurred as alleged. Vague or general allegations of difficulty arising in the employment are insufficient to give rise to compensability under FECA. Based on the evidence submitted by the claimant and the employing establishment, OWCP is then required to make factual findings which are reviewable by the Board. The primary reason for requiring factual evidence from the claimant in support of her allegations of stress in the workplace is to

[13] *See Dennis J. Balogh*, 52 ECAB 232 (2001).

[14] *See Charles E. McAndrews*, 55 ECAB 711 (2004).

[15] *Supra* note 7.

establish a basis in fact for the contentions made, as opposed to mere perceptions of the claimant, which in turn may be fully examined and evaluated by OWCP and the Board.[16]

While appellant was involved in work that concerned emergency events, her allegations regarding long days of work, little sleep, and that she felt overwhelmed when responding to two emergencies at one time, are general and vague in nature, and are not supported by specific factual evidence. Appellant has not provided the requisite detail regarding specific dates and the duties she performed, which allegedly overwhelmed her, to establish that her assigned work caused her stress. While appellant may have perceived that her work was stressful and while she provided witness statements to support her general allegations, the Board finds that appellant has not established compensable factors of employment under *Cutler* with sufficient specificity.

Appellant's allegations that her deployment was cancelled in August 2012, that she was not allowed to attend a conference in March 2012, and that she believed her employment might be terminated, are allegations that directly pertain to administrative or personnel management actions. Administrative and personnel matters, although generally related to employment, are administrative functions of the employer rather than the regular or specially-assigned work duties of the employee. In order for an administrative or personnel matter to be considered a compensable factor of employment, the evidence must establish error or abuse on the part of the employer.[17] Appellant has not submitted any evidence to substantiate that these management actions were anything more than an ordinary tension between a manager and an employee and are not sufficient to prove error and abuse.

Appellant further attributed her condition to a hostile work environment. Specifically, she stated that L.Y. called her and her coworkers cancers and explained that he was a surgeon who needed to cut the cancer from the organization. For harassment or discrimination to give rise to a compensable disability, there must be evidence which establishes that the acts alleged or implicated by the employee did, in fact, occur.[18] Appellant submitted a March 12, 2012 inter-office memorandum from L.Y., wherein he recommended that those who were cancers be removed from the organization and another office memorandum where he encouraged supervisors to root out cancers from their organization. The Board finds that these statements are general in nature and do not describe any specific incidents of harassment directed at the appellant by the employing establishment or appellant's coworkers.[19]

Appellant also alleged that her former boss, W.F. made a sexual harassing comment towards her, that L.Y. had requested that management conduct an inquiry on appellant because he suspected that she was part of a plot to get rid of him, and that false rumors were being spread about her that hurt her professional career. A claimant must establish a factual basis for his or her allegations with probative and reliable evidence.[20] Appellant did not submit probative

[16] *L.L.*, Docket No. 14-1525 (issued July 7, 2015).

[17] *Thomas D. McEuen*, 41 ECAB 387 (1990); *reaff'd on recon.*, 42 ECAB 566 (1991).

[18] *K.W.*, 59 ECAB 271 (2007); *Robert Breeden*, 57 ECAB 622 (2006).

[19] *See F.H.*, Docket No. 12-741 (issued December 12, 2012).

[20] *See Pamela R. Rice*, 38 ECAB 838, 841 (1987).

evidence, such as witness statements that could corroborate these incidents as to time and date. Thus, appellant has failed to establish these allegations as a compensable factor of employment.

Appellant has also alleged generally that her supervisor, L.Y., acted in an abusive and threatening manner. OWCP denied the compensability of these allegations stating that they involved personnel or administrative matters, and there had been no finding of agency error in any of the actions taken against appellant. These general allegations, however, are unsupported by witness statements or other evidence that can establish a specific time or place as to their occurrence.

Several of the allegations involved either abusive language or threats of physical violence. Examples include Mr. Young's reference to appellant as an "oompa loompa," his use of the signature line "Bulletproof," and his references to explosive devices and weapons in the workplace. The Board has previously held that verbal abuse or threats of physical violence in the workplace are compensable under certain circumstances. This does not imply that every ostensibly abusive or threatening statement uttered in the workplace will give rise to coverage under FECA.[21] In these allegations, while appellant has submitted statements of coworkers who agree generally that many of these statements were made, they have not been established as to the time and place and under what circumstances. The Board has held that such allegations must be surrounded by specificity in order to more appropriately gauge the context in which they were made.[22] Here, the general allegation that the use of a term which could be offensive is insufficient to establish a factor under FECA.

As for the term "Bulletproof," the Board finds that there is no evidence that such a term was directed at anyone in particular and as such the Board finds it fails to reach the level of a compensable factor of employment.

Consequently, appellant has failed to meet her claim for an emotional condition as she has not established any compensable factors with the specificity required under FECA.[23] As she has failed to establish a compensable employment factor, the Board need not address the medical evidence of record.[24]

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an emotional condition.

[21] *See S.B.*, Docket No. 11-766 (issued October 20, 2011).

[22] *See Curtis Hall*, Docket No. 92-683 (issued January 11, 1994); *John N. Babcock*, Docket No. 93-1196 (issued August 25, 1994).

[23] *Margaret S. Krzycki*, 43 ECAB 496 (1992).

[24] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2014 decision of the Office of Workers' Compensation Programs is affirmed.[25]

Issued: October 4, 2016
Washington,

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

[25] James A. Haynes, Alternate Judge, participated in the original decision but was no longer a member of the Board effective November 16, 2015.