

FACTUAL HISTORY

On April 9, 2015 appellant, then a 52-year-old financial management technician, filed an occupational disease claim (Form CA-2) for depression, anxiety, irritable bowel syndrome (IBS), spastic ataxia, back pain, leg fatigue/weakness, and vertigo, which she attributed to her “[work environment].” She first became aware of her claimed condition(s) on January 1, 2013, and first realized they were employment related on February 15, 2014. Appellant stated that she had been suffering from severe fatigue, tremors, and shakes, which caused her legs to go out completely. She also indicated that she had recently been hospitalized for depression and anxiety. The employing establishment indicated that appellant first advised her supervisor of her condition on March 6, 2015. Appellant stopped work on March 12, 2015, and returned to work on April 7, 2015, with no change in her duties/assignments.

In addition to the Form CA-2, OWCP received a September 22, 2004 financial management technician position description, as well as a December 4, 2011 Notification of Personnel Action (Standard Form 50-B), which indicated that appellant’s work performance was at an acceptable level of competence, and thus, she received a within-grade increase effective December 18, 2011.

In a June 25, 2015 claim development letter, OWCP requested that appellant submit additional factual and medical evidence in support of her occupational disease claim. It explained the basic elements for entitlement to FECA benefits, and noted that she had not provided a description of the employment factor(s) she felt caused the reported emotional and physical conditions. Additionally, OWCP noted that appellant had not provided any medical documentation from her physician to support the existence of her claimed emotional and/or physical conditions. It afforded her at least 30 days to submit the requested factual and medical evidence.

On August 18, 2015 OWCP received an undated 28-page statement in which appellant provided an extensive discussion of the stressful incidents and conditions at work that she believed had caused her to sustain the medical conditions delineated on her Form CA-2. The statement was written in a diary style whereby appellant listed various dates and described the incidents/conditions alleged to have occurred on those dates. Appellant indicated that she sustained work-related stress beginning on March 3, 2009 when she came under the supervision of the new manager of her financial section work unit. She asserted that, since that time, the financial section supervisor unfairly harassed her regarding various work matters, including the wording she used in various documents, without providing her with adequate training or guidance on how to carry out her work assignments. Appellant claimed that the financial section supervisor scrutinized her work more closely than the work of other employees and that she issued her improper performance appraisal ratings beginning in 2009. She asserted that on March 4, 2009 another supervisor harassed her by yelling at her in a place that other employees could hear the yelling. Appellant indicated that the same financial section supervisor continued to unfairly criticize her work performance and unreasonably denied her requests to undergo training necessary for her work.

Appellant further asserted that in October 2011 management improperly failed to consider her for promotion. She described several instances in February and March 2012 when

she believed that a coworker unfairly criticized her work product, including her choice of the wording of e-mail communications. The same coworker unfairly criticized the manner in which appellant filed documents. Appellant alleged that on October 12, 2012 the financial section supervisor made untrue statements about her work performance in connection with a work appraisal rating and that she became so upset that she started crying. She claimed that the supervisor improperly denied her request on that date to leave the office and take sick leave. Appellant described another incident on November 28, 2012 when the financial section supervisor unfairly criticized the manner in which she prepared e-mail communications. She indicated that on October 31, 2013 the financial section supervisor gave her feedback regarding a performance appraisal rating, which she felt was unwarranted. Appellant alleged that the financial section supervisor told her that no one wanted to promote her.

Appellant further indicated that on November 13, 2013 she became emotional and left the office because the financial section supervisor told her that a coworker was frustrated about continuing to receive documents faxed from her physician. She claimed that on March 7, 2014 the financial section supervisor unreasonably told her that she should not spend time on training despite the fact that appellant felt it was necessary for her job. Appellant indicated that on March 8, 2014 the financial section supervisor advised her of the determination that she could not take any leave until she built up leave again. She claimed that she was the only person who was monitored by this supervisor for leave usage. Appellant claimed that on July 2, 2014 the financial section supervisor unfairly criticized her by advising her that a coworker had complained that she “didn’t know what [she] was doing” with respect to a work matter. She expressed her belief that the financial section supervisor improperly listened to and responded to gossip in the workplace. Appellant asserted that on September 4, 2014 another supervisor laughed at her when she mentioned taking sick leave in a manner which suggested she believed that she was “faking” her need to take sick leave. She claimed that on October 12 and 18, 2014 the financial section supervisor unfairly criticized her handling of work matters. Appellant alleged that on October 29, 2014 the financial section supervisor wrongly accused her of slamming a door on an earlier occasion.

Appellant submitted numerous medical documents, including reports in which attending physicians describing the treatment of her various medical conditions.

In a February 16, 2016 letter, OWCP again requested that appellant submit additional factual and medical evidence in support of her claim for work-related occupational diseases. It acknowledged receipt of appellant’s August 18, 2015 response, as well as medical documentation. The enclosed questionnaire included a description of eight (8) alleged employment incidents from November 13, 2013 through October 18, 2014. OWCP advised appellant to submit evidence to support her allegations, including witness statement from anyone who could verify her allegations. It also requested that she submit copies of any grievances and/or equal employment opportunity (EEO) complaints that were filed with respect to the alleged working conditions. OWCP again afforded appellant at least 30 days to submit the requested information.

Appellant submitted several statements from early-2016 in which coworkers discussed their observations about her interactions with supervisors and other employees. She also submitted documents concerning an EEO claim she filed with respect to some of her claimed

work factors. The documents include a copy of an unsigned “EEO Settlement Agreement.” In an undated document received by OWCP on March 3, 2016, appellant discussed the treatment of her claimed stress-related conditions.

On March 16, 2016 OWCP received two unsigned documents entitled “Employing Agency Comments,” which discussed the interactions between appellant and her supervisor during the relevant timeframe.

In a decision dated March 22, 2016, OWCP denied appellant’s occupational disease claim. It noted that she claimed that she sustained these conditions due to stressful incidents and conditions at work, but that she failed to establish any compensable work factors. OWCP determined that appellant did not show that management committed error or abuse with respect to administrative matters or that supervisors or coworkers subjected her to harassment or discrimination. In reaching this determination, it discussed the claimed work factors between November 2013 and October 2014 that she described in the 28-page statement received by OWCP on August 18, 2015. However, OWCP did not discuss any of the claimed work factors alleged to have occurred between March 2009 and October 2013, which appellant also described in her 28-page statement.

On April 19, 2016 OWCP received appellant’s request for reconsideration of its March 22, 2016 decision denying her occupational disease claim. Appellant submitted a 25-page document in which she further discussed the incidents and conditions at work which she believed caused the claimed stress-related conditions. In an April 29, 2016 statement, a coworker discussed appellant’s interactions with supervisors. Appellant also submitted additional medical evidence in support of her claim.

By decision dated July 18, 2016, OWCP denied appellant’s request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a). It found that she did not raise substantive legal questions or submit new and relevant evidence in connection with her reconsideration request.

LEGAL PRECEDENT

To establish that she sustained an emotional and/or stress-related physical condition causally related to factors of her federal employment, appellant must submit: (1) factual evidence identifying and supporting employment factors or incidents alleged to have caused or contributed to her condition; (2) rationalized medical evidence establishing that she has an emotional condition or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that her emotional condition is causally related to the identified compensable employment factors.³

Workers’ compensation law does not apply to each and every injury or illness that is somehow related to one’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

³ See *Kathleen D. Walker*, 42 ECAB 603 (1991).

compensable.⁴ 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 hold a particular position.⁵

An employee's emotional reaction to administrative or personnel matters generally falls outside FECA's scope.⁶ 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.⁷ However, to the extent 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.⁸

Perceptions and feelings alone are not compensable. To establish entitlement to benefits, a claimant must establish a basis in fact for the claim by supporting his or her allegations with probative and reliable evidence.⁹ When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter, OWCP must base its decision on an analysis of the medical evidence.¹⁰

ANALYSIS

On April 9, 2015 appellant filed an occupational disease claim alleging both emotional and physical conditions due to incidents and conditions at work. On August 18, 2015 OWCP received an undated 28-page statement in which she provided an extensive discussion of the stressful incidents and conditions at work which she believed caused her to sustain the medical conditions alleged in her Form CA-2. The statement was written in a diary style whereby appellant listed and described various incidents/conditions alleged to have occurred between March 2009 and April 2015.

In its decision dated March 22, 2016, OWCP denied appellant's claim for stress-related occupational diseases on a factual basis noting that she failed to establish any compensable work factors.¹¹ It determined that she did not show that management committed error or abuse with

⁴ *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

⁵ *Lillian Cutler*, *id.*

⁶ *Andrew J. Sheppard*, 53 ECAB 170, 171 (2001); *Matilda R. Wyatt*, 52 ECAB 421, 423 (2001).

⁷ *David C. Lindsey, Jr.*, 56 ECAB 263, 268 (2005).

⁸ *Id.*

⁹ *Supra* note 3.

¹⁰ *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992). Unless a claimant establishes a compensable factor of employment, it is unnecessary to address the medical evidence of record. *Garry M. Carlo*, 47 ECAB 299, 305 (1996).

¹¹ *See supra* notes 3 through 11 regarding the need to establish compensable work factors alleged to have caused stress-related medical conditions.

respect to administrative matters or that supervisors or coworkers subjected her to harassment or discrimination.¹²

In reaching this determination, OWCP discussed a number of the claimed work factors between November 2013 and October 2014 that appellant described in her 28-page statement. However, OWCP did not discuss any of the claimed work factors alleged to have occurred between March 2009 and October 2013, which were also included in appellant's August 18, 2015 narrative statement. Appellant's descriptions of these claimed factors between this time period were extensive in nature. She described numerous incidents during this period that she believed constituted work factors, including specific claimed incidents when supervisors subjected her to harassment and discrimination, unfairly scrutinized her work product, wrongly denied leave requests, improperly denied promotion opportunities, and issued improper performance appraisals. She also claimed that coworkers unfairly criticized her work product on several occasions between March 2009 and October 2013.

In deciding matters pertaining to a given claimant's entitlement to compensation benefits, OWCP is required by statute and regulation to make findings of fact.¹³ Its procedure further specifies that a final decision of OWCP "should be clear and detailed so that the reader understands the reason for the disallowance of the benefit and the evidence necessary to overcome the defect of the claim."¹⁴ These requirements are supported by Board precedent.¹⁵

Given that OWCP failed to adequately address a substantial portion of appellant's claimed work factors, *i.e.*, the numerous factors alleged between March 2009 and October 2013, it has failed to make adequate findings of fact in the present case. Therefore, the case shall be remanded to OWCP for further development of the evidence regarding appellant's claimed occupational exposure during the above-noted period. After carrying out this development, OWCP shall issue a *de novo* decision on this matter.

CONCLUSION

The Board finds that the case is not in posture for decision regarding whether appellant met her burden of proof to establish stress-related occupational diseases due to work factors. The case is remanded to OWCP for further development.¹⁶

¹² See *supra* notes 5 through 9.

¹³ 5 U.S.C. § 8124(a) provides that OWCP "shall determine and make a finding of facts and make an award for or against payment of compensation." 20 C.F.R. § 10.126 provides in pertinent part that the final decision of OWCP "shall contain findings of fact and a statement of reasons."

¹⁴ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5c(3)(e) (February 2013).

¹⁵ See *James D. Boller, Jr.*, 12 ECAB 45, 46 (1960).

¹⁶ Given the Board's disposition with respect to the merits of appellant's emotional condition claim, the question of whether OWCP properly denied further merit review in its July 18, 2016 decision is moot.

ORDER

IT IS HEREBY ORDERED THAT the March 22, 2016 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision.

Issued: September 7, 2017
Washington, DC

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

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

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