

**United States Department of Labor
Employees' Compensation Appeals Board**

_____)
K.K., Appellant)

and)

FEDERAL DEPOSIT INSURANCE)
CORPORATION, New York, NY, Employer)
_____)

Docket No. 23-0545
Issued: December 11, 2024

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 13, 2023 appellant filed a timely appeal from a September 15, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

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

FACTUAL HISTORY

On November 18, 2020 appellant, then a 63-year-old senior complex financial institution analyst, filed an occupational disease claim (Form CA-2), alleging that he sustained stress, anxiety, depressive disorders, and heart palpitations due to factors of his federal employment. He noted

¹ 5 U.S.C. § 8101 *et seq.*

that he first became aware of his claimed condition on February 8, 2020, and realized its relation to his federal employment on July 2, 2020. Appellant did not stop work.

In an undated narrative statement, appellant alleged that his work-related condition began in 2014. In 2014, he alleged that J.F., his team leader and future supervisor, prevented him from teaching at the employing establishment. This caused appellant stress as he was previously allowed to teach at the employing establishment by K.B., his then supervisor, and other employees were allowed to teach there. In June 2016, he alleged that D.G., a team lead, had recommended him for an award for appellant's work in discovering and correcting a calculation error in the quarterly report and missing information following the database conversion. However, J.F. refused the recommendation. Appellant felt targeted by J.F. and that he was not worthy of acknowledgement. On or around June 21, 2017 he alleged that J.F. singled him out and chastised him during a team meeting with regard to excessive use of credit hours, but other team members who used more credit hours than he did were not chastised. Appellant alleged that his anxiety worsened due to J.F.'s constant hostile attack and mistreatment. In late 2017, employees were given an opportunity to select a few classes to attend in 2018. Appellant alleged that J.F. did not place him in his selected classes, but sent him to attend the class he had taught in 2013-2014. He alleged that this was an intentional attempt by J.F. to humiliate and target him. On March 22, 2018 appellant applied to use his funds to take an online law class. He indicated that J.F. denied his request on May 2, 2018, with the excuse that classes could not be taken to obtain a degree. Appellant alleged that J.F. prevented him from taking the course through half-true or untrue statements, used delay tactics, and refused to listen to his defense of the request. This left him mentally distressed. Appellant indicated that on October 29, 2019 he applied to use his funds to register for a business writing class, but, J.F. ignored his request. From January 6 through 17, 2020, appellant indicated that he was assigned to teach a class at the employing establishment. However, he was forced to use his own time (40-50 hours) for class preparation even though he was entitled to 40 hours of class preparation work. Appellant also alleged that J.F. denied his request for a few credit hours spent grading papers "because no one attending [employing establishment] class[es] uses credit hours." On November 22, 2019 he indicated that he identified a mistake in a set of reports, but instead of appreciating his work and attention to detail, J.F. asked him why he did not notice the error sooner. In a December 30, 2019 e-mail to J.F., appellant advised that there was an error in the Executive Briefing Memos. He alleged that on January 2, 2020 J.F. came to his office and demanded to know how the numbers reported were inaccurate. After he explained the numbers, appellant alleged that J.F. became furious and grabbed the pen, which appellant was using to point to the computer screen, out of his hand. He alleged that he was startled and jumped back in shock. Appellant also alleged that J.F. stated that he would destroy the computer monitor. He stated that L.P. and "J" witnessed the incident and that S.B., his union representative, advised appellant that he might be fired if he filed a police report. Appellant alleged that this incident exacerbated his preexisting emotional condition. In January 2020, he alleged that J.F. gave him an additional assignment in addition to his normally assigned duties, which required an unprecedented level of detail no other staff member was required to provide. Appellant described the process involved and indicated that there was a large backlog and that the prior work done by staff was on a very limited basis and without the level of detail he was required to do. He indicated that J.F. would review the work meticulously, and would become angry and berate appellant for mistakes that were not his. This made appellant anxious as he knew he would be subjected to insults for small mistakes. He indicated that, during a meeting, J.F. found some issues and asked why he could not do this simple job that "even a 9th grader can do." During a follow-

up meeting the next week, appellant told J.F. that his comment was hurtful, but J.F. did not care that he was subjected to insults. After spending two weeks figuring out why the issue had happened for which he had been insulted, he realized that he was berated for something that was not a mistake on his part. Appellant alleged that J.F.'s continued harassment caused anxiety over being subjected to insults and simple mistakes. On January 24, 2020 he indicated that J.F. berated him for not receiving weekly bullets even after he advised appellant that the weekly bullets were cancelled when P.D., the Acting Associate Director, left. Appellant alleged that because of the hostile work environment created by Supervisor J.F., he has lived in a state of fear and anxiety since 2014. He noted that, most of the instances occurred in telephone calls or in J.F.'s office and, for those incidents which were documented with e-mails, he was unable to print as he was working from home and not attached to the work printers. Appellant indicated that he filed an informal Equal Employment Opportunity Commission (EEOC) complaint on July 10, 2020, and a formal complaint on September 17, 2020 related to his hostile treatment and psychological stresses during his employment; however, a decision had not been rendered.

In a January 6, 2021 response to appellant's claim, K.A., appellant's current supervisor, reported that appellant was under a notice of performance deficiency, after failing to demonstrate successful performance in three out of five performance categories. She indicated that he worked 40 hours 5 days a week, with occasional credit hour claims for up to 2 hours per week, and that his work was no more or less stressful than that of other employees.

In a February 1, 2021 development letter, OWCP notified appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding appellant's allegations. It afforded both parties 30 days to respond.

The employing establishment controverted the claim. In a February 17, 2021 statement, J.F., indicated that he was appellant's direct supervisor during the majority of the timeframe mentioned in the claim and he became a section chief in July 2015. He indicated that he was not appellant's supervisor in 2014 and denied any knowledge of whether appellant was allowed to teach at the employing establishment, noting that appellant had previously served as an instructor with a different section. J.F. indicated that he supported appellant's efforts to resume his work as an instructor and had cleared him to attend instructor training and student teaching. He denied knowing about the 2016 award recommendation appellant alleged. J.F. noted that if it was a peer-nominated award, award submission was generally by the section chief, not colleagues. He noted that appellant had received awards in 2016 and 2018, which he had approved on appellant's behalf. J.F. denied sending any email to the staff accusing appellant of taking excessive credit hours on or around June 21, 2017. With regard to appellant's 2018 classes, he indicated that he had asked his employees to give him their "wish list" for classes and that he did the best to get them registered, but some classes had a very small class size. J.F. denied being aware of the specifics surrounding appellant's allegation of being sent to a class that he previously taught. He stated that there was no reason he would refuse to enroll appellant in a class and, if he had already taken the class, it was appellant's responsibility to tell him since he was not appellant's manager in 2013-2014 and he would have had no way of knowing. Regarding appellant's use of his funds for online law classes, J.F. indicated that the class centered on British law and was completely unrelated to appellant's job duties as it had nothing to do with U.S. law, bank regulations or the employing

establishment's mission. He indicated that after a discussion appellant withdrew that request and took another training class. With regard to appellant's use of his funds for a business writing class, J.F. indicated that he did not know anything about this, noting that there would be no reason for him to deny a legitimate training request unless similar training was offered in house. He stated that the employing establishment had many business writing courses offered in-house and, a couple years ago, his entire section was trained in effective business writing skills. With regard to appellant's allegation for credit hours denied for teaching at the employing establishment, J.F. explained that he wanted a further explanation of the credit hours claimed and returned the timesheet to him. After appellant explained that the credit hours were for after-hours preparation of one of their internal reports as opposed to preparation to teach a class, J.F. indicated that he approved appellant's resubmitted timesheet. He noted that credit hours were not necessary for class preparation since instructors were granted official time to prepare for teaching classes. J.F. denied that the November 22, 2019 incident of singling appellant out for not noticing an error in a set of reports sooner occurred. He also denied that he "snatched" the pen from appellant's hand on January 2, 2020. J.F. explained that appellant was pointing out something on his computer screen with a ball point pen and was getting ink on the screen. So that his screen would not get any more ink on it, he indicated that he used his hand to move appellant's pen out of the way and had explained his actions at the time. J.F. indicated that the pen never left appellant's hand. With regards to the "case manager" process and assignment in January 2020, he indicated that the assignment had been given to other team members in the past and the role was fluid based on the resource needs of the team and the collective schedules of the team members. J.F. indicated that appellant had sufficient time in his schedule to handle the case management duties as he did not participate in the targeted examinations and had relatively fewer standing meetings to attend to cover his risk areas. He also noted that this role took five to seven hours per week, if done efficiently. Regarding the January 2020 weekly bullet points, J.F. indicated that this was a standing deliverable each week for each team member and that appellant had gone several weeks without providing bullet points. He acknowledged that, while P.D., then Acting Associate Director, had cancelled bullet points for one particular week, he did not criticize appellant for that, incident since no bullet points were due; rather, the issue was that appellant had not provided any bullet points at all for several weeks.

In a February 18, 2021 statement, K.A., section chief, indicated that appellant's position was a premium graded position that required deadlines, travel and complex assignments. She indicated that he never indicated a need for or ever requested any reasonable accommodation and that there were no staffing shortages or conflicts which would have affected his work in any appreciable manner. K.A. indicated that appellant was given a notice of deficient performance during his mid-year Fiscal Year 2020 performance discussion and was rated as unsuccessful at the end of the rating period, but that there was no reason to believe that his unsuccessful performance was related to any medical condition. Copies of appellant's notice and performance ratings which were noted as being attached, but are not of record.

In a June 22, 2017 e-mail justifying the amount of credit hours worked from mid-March to June 2017, appellant noted that he had worked a total of 20.30 hours during six months, and that the e-mail was "in spirit of [J]'s comment about my excess booking of credit hours." J.F. was carbon copied on the e-mail.

In a March 28, 2018 e-mail to J.F., appellant noted that the delay in decision regarding the use of his funds was causing him great psychological and emotional distress. He also presented arguments as to why he should be able to take the course. The course was not specifically identified in the e-mail.

In a September 20, 2020 report, Dr. James F. Colasurdo, a licensed clinical psychologist, indicated that appellant had approximately eight appointments between June and August 2020 as a result of anxiety and dysphoria suffered over the years at his place of work. He diagnosed anxiety disorder unspecified, moderate-to-severe; and depressive disorder unspecified, moderate-to-severe.

OWCP also received several reports from Dr. Joel H. King, a psychiatrist. In a February 16, 2021 report, Dr. King noted appellant's work incidents and diagnosed post-traumatic stress disorder and major depressive disorder. In progress reports dated March 8 and 22, and May 10, 2021, he opined that appellant's psychiatric illness was both causally and temporally related to his workplace.

By decision dated July 1, 2021, OWCP denied appellant's emotional condition claim, finding that the evidence of record was insufficient to establish a compensable employment factor. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On June 17, 2022 appellant, through counsel, requested reconsideration. Counsel reiterated appellant's allegations and contended that they constituted error or abuse by the employing establishment or workplace harassment.

Appellant submitted an August 23, 2021 statement disagreeing with OWCP's decision. Additional evidence was also received. This included additional e-mail communications from appellant and J.F. pertaining to use of his funds for the online law class, including the May 2, 2018 cancellation; a January 30, 2019 e-mail pertaining to appellant's teaching at the employing establishment and copies of the instructor toolkit; an August 9, 2021 e-mail from D.G. confirming that he had recommended appellant for an award; e-mails from J.F. and appellant pertaining to his failure to submit weekly bullet points noting that it had been seven weeks and e-mails pertaining to bullet points on specific projects; a copy of the rewards and recognition program recommendation and enhancements (published March 2, 2016); e-mail responses from coworkers regarding appellant's excess credit-hour booking; copies of appellant's training requests and career development plans for a conference and writing course; and copies of performance plans; and an e-mail pertaining to an instructor effectiveness workshop.

Additional medical progress reports were also received.

By decision dated September 15, 2022, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 employment injury.³ 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.⁴

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.⁵

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 or her regular or specially assigned duties or to a requirement imposed by the employment, the disability comes within the coverage of FECA.⁶ 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 or her frustration from not being permitted to work in a particular environment, or to hold a particular position.⁷

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than regular or specially assigned work duties of the employee and are not covered under FECA.⁸ Where the evidence demonstrates

² *Id.*

³ *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *Gary J. Watling*, 52 ECAB 278 (2001).

⁴ 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).

⁵ *See M.V.*, Docket No. 22-0227 (issued March 28, 2023); *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁶ *A.M.*, Docket No. 21-0420 (issued August 26, 2021); *A.C.*, Docket No. 18-0507 (issued November 26, 2018); *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125 (1976).

⁷ *A.E.*, Docket No. 18-1587 (issued March 13, 2019); *Gregorio E. Conde*, 52 ECAB 410 (2001).

⁸ *C.V.*, Docket No. 18-0580 (issued September 17, 2018).

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.⁹

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.¹⁰ Mere perceptions of harassment or discrimination are not compensable under FECA.¹¹ A claimant must substantiate allegations of harassment or discrimination with probative and reliable evidence.¹² Unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.¹³

ANALYSIS

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

Initially, the Board notes that appellant has not attributed his emotional condition to *Cutler*¹⁴ factors. While he reported being assigned an additional assignment in January 2020, he did not allege stress as a result of trying to meet his position requirements.¹⁵ Thus, appellant has not established a compensable work factor under *Cutler*.

Rather appellant's allegations are primarily based on his dissatisfaction with supervisory actions. The Board has held that mere dislike or disagreement with certain supervisory actions will not be compensable absent error or abuse on the part of the supervisor.¹⁶ Appellant alleged that, in 2014, J.F., in coordination with management, told him that he could not teach at the employing establishment while others from another section were allowed to teach. J.F. denied the allegation noting that he was not appellant's supervisor at the time. The record is devoid of any evidence to support that a coordinated effort existed to prevent appellant from teaching at the employing establishment in 2014. The Board finds that appellant has not established error or abuse

⁹ *Id.*

¹⁰ *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *K.W.*, 59 ECAB 271 (2007); *Robert Breeden*, 57 ECAB 622 (2006).

¹¹ *A.E.*, *supra* note 7; *M.D.*, 59 ECAB 211 (2007); *Robert G. Burns*, 57 ECAB 657 (2006).

¹² *J.F.*, 59 ECAB 331 (2008); *Robert Breeden*, *supra* note 10.

¹³ *R.D.*, Docket No. 21-0050 (issued February 25, 2022); *T.Y.*, Docket No. 19-0654 (issued November 5, 2019); *G.S.*, Docket No. 09-0764 (issued December 18, 2009); *Ronald K. Jablanski*, 56 ECAB 616 (2005); *Penelope C. Owens*, 54 ECAB 684 (2003).

¹⁴ *Supra* note 6.

¹⁵ *K.J.*, Docket No. 17-1851 (issued September 25, 2019); *P.W.*, Docket No. 08-0315 (issued August 22, 2008); *Jeral R. Gray*, 57 ECAB 611 (2006).

¹⁶ *M.E.*, Docket No. 21-1340 (issued February 1, 2023); *T.C.*, Docket No. 16-0755 (issued December 13, 2016).

in these administrative functions.¹⁷ Thus, appellant has not established a compensable factor in this regard.

With regard to the denial/approval of selected classes, appellant alleged that in 2018 he was registered for a course he previously taught. In his February 17, 2021 statement, J.F. explained why he was unable to accommodate everyone's class selection on their "wish list." He also indicated that he was unaware that appellant had previously taught the class to which he was sent and that it was appellant's responsibility to inform him of such a situation. The Board finds that appellant has not established error or abuse in these administrative functions. Thus, he has not established a compensable work factor.¹⁸

With regard to the denial/approval of his funds for selected classes for training purposes, the record reflects that appellant's March 2018 request to use his funds for an online law class through the employing establishment was denied after a series of e-mails and discussions between J.F. and appellant. J.F. explained that he denied the online class as it had nothing to do with U.S. laws, bank regulations or the employing establishment's mission. As this is a reasonable exercise of supervisory discretion, the Board finds that appellant has not established error or abuse on the part of the employer.¹⁹

Appellant also alleged that his October 29, 2019 request to use his funds to register for a business writing class was ignored. The record contains a November 14, 2019 web-generated pending requests for a writing course. In his statement, J.F. indicated that he was unaware of such a request, unless perhaps similar training was offered in-house. He advised that several in house business writing class were available to employee and that his entire section was trained in effective business writing skills several years ago.²⁰ As J.F. offered a reasonable explanation that business writing courses were available in-house, appellant has not established error or abuse by the employing establishment in this administrative function.²¹

Appellant alleged that he was recommended for an award in 2016 by a team lead; however, J.F. denied the award on two occasions. An August 9, 2021 e-mail from D.G. confirmed that he had put appellant's name in for an award. In his February 17, 2021 statement, J.F. explained the process of award recommendations, noting that recommendations were given by the section chief, not a team lead or colleagues. He also indicated that appellant had received awards in 2016 and 2018. Appellant offered no corroborating evidence to support that he was refused an award on two occasions or that the two awards he received were for accomplishments/achievements other

¹⁷ See *G.R.*, Docket No. 18-0893 (issued November 21, 2018); *Andrew J. Sheppard*, 53 ECAB 170-71 (2001), 52 ECAB 421 (2001); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

¹⁸ *Id.*

¹⁹ *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

²⁰ J.F. also noted that appellant attends the AICPA financial seminar each year.

²¹ *M.S.*, Docket No. 19-1589 (issued October 7, 2020); *D.T.*, Docket No. 19-1270 (issued February 4, 2020); *S.S.*, Docket No. 18-1519 (issued July 17, 2019); *C.T.*, Docket No. 09-1557 (issued August 12, 2010); *Donna J. Dibernardo*, 47 ECAB 700 (1996).

than that alleged. As there is no evidence of error or abuse with regard to the approval of and receipt of awards, appellant has not established a compensable employment factor.

Appellant also alleged dissatisfaction with supervisory action with regard to his use of or requests for credit hours. On or around June 21, 2017 he alleged that J.F. told his team publicly that he had excess booking of credit hours and singled him out. A review of a June 22, 2017 e-mail sent by appellant does not support appellant's allegation that he was singled out. Therefore, the Board finds that there is no evidence that this had occurred, as alleged. With regard to appellant's credit hour requests during the period January 6 through 17, 2020 when he taught a class at the employing establishment, he indicated that he used his own time for class preparation despite being entitled to 40 hours due to his supervisor's treatment and fear of possible repercussions and that he had requested a few credit hours for working late, but J.F. indicated that he was not going to approve the hours. The record reflects that J.F., after appellant explained the credit hours were for work on an internal report, approved the credit hours as they were not for class preparation. Appellant has, therefore, not established a compensable employment factor with regard to this administrative matter.

Appellant also alleged that on November 22, 2019 J.F. failed to acknowledge his achievement of finding a mistake in a set of reports, but instead targeted him and asked why he did not see the error sooner despite multiple other individuals reviewing the same report. In his February 17, 2021 statement, J.F. denied that happened. Appellant has provided no corroborating evidence to support that this incident occurred as alleged; thus, he has not established a compensable employment factor in this matter.

Appellant also expressed dissatisfaction with performance discussions regarding missing weekly bullet points. On January 24, 2020 he indicated that he received an e-mail from J.F. regarding missing weekly bullet points for over seven weeks. Appellant indicated that, when he tried to explain, J.F. berated him. The evidence supports that the bullet points was a weekly deliverable which was cancelled on one occasion. There is no evidence that the seven weeks of missing bullet points were referenced to the one specific week that bullet points were cancelled. Based on the evidence of record, the Board finds that appellant has not established error or abuse by the employing establishment in this administrative function. As such, appellant has not established a compensable employment factor with regard to these administrative matters.²²

While appellant submitted e-mails and memoranda, which concerned these administrative/personnel matters, the communications did not show that the employing establishment committed error or abuse with respect to these matters. Although appellant expressed dissatisfaction with the actions of J.F., the Board thus finds that appellant has not submitted any corroborative evidence to establish error or abuse in the above identified administrative and personnel functions concerning his dissatisfaction with supervisory actions.

Appellant also alleged a pattern of harassment and disparate treatment by J.F. In his statements detailing his interactions with J.F., he described multiple incidents beginning in 2014 in which he alleged J.F. would single him out for criticism, berate him, not listen to his explanations/reasons, and deny his requests. With regard to the allegations discussed above,

²² See *P.B.*, Docket No. 19-1673 (issued December 1, 2021).

appellant submitted no evidence to support his assertions that these administrative functions were a result of disparate treatment or harassment. As stated above, unsubstantiated allegations of harassment or discrimination are not determinative of whether such harassment or discrimination occurred.²³ Therefore, appellant has not established a compensable employment factor with respect to the claimed harassment and discrimination.

Appellant also alleged a January 2, 2020 incident whereby he was pointing to the computer screen with a pen and J.F. got furious and grabbed the pen out of his hand angrily. He also alleged that J.F. stated that he would destroy the computer monitor. Appellant stated that L.P. and “J” witnessed the incident. Appellant has not submitted corroborative evidence in support of his allegations. There are no statements of record from the witnesses to the alleged incident to confirm appellant’s version of events.²⁴ Thus, appellant has not established a compensable employment factor with respect to this allegation.

As the Board finds that appellant has not established a compensable employment factor, it is not necessary to consider the medical evidence of record.²⁵

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 condition in the performance of duty, as alleged.

²³ *M.H.*, Docket No. 21-1297 (issued December 20, 2022); *T.Y.*, Docket No. 19-0654 (issued November 5, 2019); *G.S.*, Docket No. 09-0764 (issued December 18, 2009).

²⁴ *See J.M.*, Docket No. 16-0717 (issued January 12, 2017).

²⁵ *See B.O.*, Docket No. 17-1986 (issued January 18, 2019) (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 September 15, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 11, 2024
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