

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

E.F., Appellant)	
)	
and)	Docket No. 24-0727
)	Issued: October 25, 2024
U.S. POSTAL SERVICE, CLOVIS POST)	
OFFICE, Clovis, CA, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On June 28, 2024 appellant filed a timely appeal from a May 28, 2024 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 her burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board.² The facts and circumstances set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On January 10, 2023 appellant, then a 59-year-old city carrier,³ filed an occupational disease claim (Form CA-2) alleging that she developed migraines, panic and anxiety attacks, post-traumatic stress disorder (PTSD), and depression due to factors of her federal employment. She indicated that she had filed three prior claims for the same conditions, and that a hostile and unsafe work environment had exacerbated her "mental and health issues."⁴ Appellant noted that she first became aware of her claimed conditions and their relationship to her federal employment on November 11, 2021. She stopped work on July 28, 2022.

In a February 14, 2020 progress note, Dr. Michael P. Azevedo, a Board-certified psychiatrist and internist, related that appellant had received a diagnosis of PTSD due to a history of sexual trauma while serving in the military and for migraines and emotional difficulties that she attributed to her work environment with the employing establishment beginning in January 2017. He noted that she related that in November 2019 her symptoms worsened when a co-worker played loud music. Dr. Azevedo diagnosed acute stress disorder.

In a February 24, 2020 clinical note, Jennifer D. Mehling, a psychologist, noted that appellant had been diagnosed with depression in 1990 while in the military, had worked for the employing establishment for 27 years, and had begun having panic attacks about 8 years ago. She indicated that she related that her employer mismanaged her time off for medical problems, that her manager made daily tasks hard for her, and that she did not like being around people due to her history of trauma.

In a November 10, 2021 narrative report, Dr. James McClelland, a clinical psychologist, diagnosed appellant with an exacerbation of PTSD due to a "hostile work environment."

In a form report dated December 2, 2021, Dr. McClelland requested that appellant be considered for a telework position as an accommodation for her diagnosis of PTSD, which would significantly reduce her anxiety while still allowing her to remain productive.

² *Order Remanding Case*, Docket No. 23-0639 (issued December 11, 2023).

³ Appellant related that she had been transferred permanently to office work due to an illness that began in 2017.

⁴ OWCP assigned the present claim OWCP File No. xxxxxx539. Appellant previously filed a Form CA-2 alleging a stressful and harmful work environment, which OWCP adjudicated under OWCP File No. xxxxxx975. She further referenced a prior traumatic injury claim (Form CA-1) occurring while in the performance of duty on June 4, 2019, resulting in migraine headaches, nausea, light and noise sensitivity, and extremity weakness, which OWCP adjudicated under OWCP File No. xxxxxx026. Appellant also filed a Form CA-2 alleging a negative and hostile work environment in the office resulting in migraines, panic and anxiety attacks, and depression, which OWCP adjudicated under OWCP File No. xxxxxx663. The claims in OWCP File Nos. xxxxxx975, xxxxxx026, and xxxxxx663 have been denied. OWCP administratively combined OWCP File Nos. xxxxxx975, xxxxxx026, and xxxxxx663, with the latter designated as the master file.

In a Department of Veterans Affairs (VA) rating decision dated January 31, 2022, appellant's prior 70 percent disability rating was increased to 100 percent effective November 24, 2021 due to PTSD with severe major depressive disorder with anxious distress. She was also awarded special monthly compensation based upon housebound criteria.

In letters dated June 2 and July 18, 2022, Dr. McClelland requested that appellant be excused from work from May 25 through June 2, 2022, and July 18 through September 30, 2022, respectively, due to receiving inpatient treatment at a VA hospital.

In a letter dated September 2, 2022, the employing establishment noted that it had scheduled an interactive meeting for appellant with its district reasonable accommodations committee (DRAC) on September 8, 2022.

In a November 21, 2022 statement, appellant indicated that she experienced "hostility at the office," which caused her to have panic attacks on the way to work, burst out crying, and be unable to leave her home. She noted that she had previously filed occupational disease claims for her PTSD and depression beginning in 2018 that had been denied.

On December 1, 2022 Dr. McClelland indicated that appellant was currently being treated in a hospital for PTSD. He related that "since the start of her treatment, [she] has reported a hostile work environment, which has exacerbated symptoms of PTSD."

In a December 21, 2022 letter to appellant, J.D., a labor relations manager and DRAC chairperson, noted that appellant had alleged discrimination based on a disability due to the refusal of her request to telework as a reasonable accommodation arising from permanent medical restrictions that required her to avoid groups of people and conduct work free of ambient hostility. He indicated that he sent her a letter on October 18, 2022 which advised her that her request had been denied as it was not a reasonable accommodation. J.D. informed appellant that the matter was now closed but that she had the option to file a formal complaint within 15 days.

In a January 9, 2023 statement, appellant related that since November 11, 2021 her health issues had increased due to a "hostile and unsafe work environment," resulting in her present claim. She advised that due to another injury she was limited to two hours of work per day. Appellant summarized her prior claims and described feelings of anxiety, fear, and panic, and sensitivity to noise, flashing lights, and environmental factors that she experienced while in the workplace since December 2016, when she accepted an offer to perform office work because of knee and right arm limitations. She indicated that she was told to self-monitor her limitations. Appellant decided to answer telephones and work from the bulk mailroom but did not have a desk until an ergonomic specialist evaluated the situation and she received a sit-to-stand desk. She was constantly turned down for any request she made that was job related, including a computer so she could work, until she contacted DRAC. Appellant's desk was within proximity to supervisors arguing with each other, customers yelling at window clerks, and "all around hostility resulting in continuous anxiety and depression." Thereafter, between 2021 and 2022, she related that she presented work restriction notes to her postmaster, D.E., who "would grab the work status form from my hand and throw it on his desk and yell." Appellant also described difficulties with a supervisor, D.A., in 2020, who she claimed yelled at her for not answering telephones and intentionally stood near her and stared or smiled once or twice a day, which gave her panic attacks. She related that she filed

an Equal Employment Opportunity (EEO) complaint in 2020 with respect to D.A., which she indicated resulted in her receiving an award of back pay and D.A. being moved from the workroom floor. Regarding her present claim, appellant related that at the end of November 2021 she asked for a DRAC meeting to request to work from home, as her depression and anxiety were causing issues every single day. She noted that, although there was a DRAC meeting in December 2021, she did not receive a decision and, therefore, she filed another DRAC meeting request followed by an EEO complaint. At a mediation on October 18, 2022, appellant was told that the employing establishment did not have work for her. She indicated that “the hostile treatment that I have received over the last five years” at the employing establishment had exacerbated her PTSD.

OWCP also received statements by appellant and witnesses and various medical notes pertaining to her prior claim of migraines due to exposure to loud music and smells in 2019 and 2020.

In a January 26, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional evidence needed, including a detailed description of the implicated work factors and copies of any grievance documents related to the claim, and provided a questionnaire for her completion. In a separate development letter dated January 30, 2023, OWCP also requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant’s allegations. It afforded both parties 30 days to respond.

OWCP thereafter received a March 20, 2018 note from Dr. Nile, who recommended that appellant be returned to the bulk mailroom to perform her work duties.

In a January 29, 2020 e-mail, appellant requested that A.S. provide her with more work because “when there is ‘downtime’ there is a greater probability of a panic/anxiety attack” and “when I am not busy I start feeling fearful as if I am unsafe in my surroundings.” She indicated that “I know this is just latent emotions that I’ve carried over from my time in the [military] resulting in my PTSD.”

In a February 10, 2020 report, Dr. Nile diagnosed appellant with PTSD due to military sexual trauma and noted that appellant was permanently disabled and unemployable.

In a July 23, 2020 statement, appellant indicated that on July 16, 2020 she paged her rural supervisor, D.A., regarding a customer complaint. Another supervisor, E.A., told her that D.A. had requested that she take a message. Appellant told E.A. that the same customer had called the day before and was really upset. Then D.A. asked to speak with her, and she felt that he invaded her personal space, smirked at her, made her uncomfortable, and aggravated her PTSD. Appellant also noted that on July 28, 2020 D.A. came to her office and asked if she was answering telephones, and another supervisor asked her for updated medical restrictions. She felt she was being bullied and harassed by D.A.

In an August 4, 2020 EEO contact summary, appellant claimed workplace harassment and intimidation by D.A.

In an August 11, 2020 e-mail to A.S., appellant claimed that on July 27 and 28, 2020 D.A. came into the bulk mailroom and ordered her to answer telephones and told her it was her job to

answer telephones. She stated it was not her job to answer the telephone. Appellant indicated that D.A. would enter the bulk mailroom two to three times per day to “order” her or “harass” her and that his behavior triggered her PTSD. She also indicated that for the last few days D.A. had acted in a hostile manner towards her and “continues to come at me in an intimidating manner.”

In e-mails dated March through August 2021, appellant noted issues with smells from cleaning solvents and a lack of air conditioning in her work area, and A.S. advised her of the actions he had taken to resolve the issues.

In an August 5, 2021 e-mail exchange with A.S., appellant claimed that the employing establishment had made derogatory remarks about her on a CA-2 form that she filed for a 2006 arm injury. A.S. responded that the employing establishment had the right to controvert her claims and was not making derogatory remarks.

In an August 30, 2022 e-mail exchange with D.E., appellant requested to revisit her work from home request and explained that she never received a response from DRAC after her November 2021 meeting. D.E. responded that he was sorry that she was going through that and would forward her request to the DRAC committee and his boss.

In a September 9, 2022 e-mail exchange, D.E. advised appellant that he had not heard anything from DRAC and could not authorize any work from home without authorization from human resources and upper management.

In a September 29, 2022 EEO contact summary form, appellant reiterated her attempts to obtain approval for her request to work from home and that she still had not received a decision despite two DRAC meetings. She noted that her PTSD was manageable while delivering mail but worsened due to a hostile environment within the office.

In an October 28, 2022 letter, J.D. indicated that appellant’s request to work from home was not a reasonable accommodation that could be granted at that time. He explained that she could not perform any aspect of the city carrier job from home and that there was no other work that was vacant and funded that she could perform from home. J.D. noted that there were no telework opportunities.

In a February 21, 2023 narrative report, Dr. James McClelland, a clinical psychologist, diagnosed appellant with PTSD and major depressive disorder, and indicated that workplace stressors had intensified the depressed mood and symptoms associated with her past military trauma. He recommended that she be permitted to work from home.

In a February 23, 2023 response to OWCP’s questionnaire, D.E. noted that he was the current postmaster for the employing establishment and had previously also been the postmaster from April 2, 2016 through September 2, 2018 and thereafter returned on October 16, 2021. He indicated that on December 13, 2016 appellant accepted a modified position and that, during his time as postmaster for the employing establishment, she presented him with four medical notes none of which he ever grabbed or threw on his desk. D.E. denied ever yelling at appellant or ever acting in a similar way during his 35 years of employment. He noted that in 2017 she sat on a stool and self-monitored her restrictions. D.E. obtained a desk for appellant and arranged for her to work in the bulk mail office except when the bulk mail clerk needed to take over the computer

for his assignments. He indicated that he also obtained a computer for appellant, submitted her name to DRAC for an adjustable desk, obtained a headset for her, gave her additional bereavement leave when she lost family members in 2022, and did everything he could to accommodate her requests. D.E. placed her desk near him because she often had questions that he needed to answer and because she scheduled applicants for interviews with him, not because he was trying to show her who was in charge. He asserted that appellant's allegations that she had to listen to supervisors arguing was false. D.E. noted that one time in early 2018 she complained to him that one of the male voices on a teleconference triggered her PTSD and she asked to use the bulk mail office to avoid hearing that voice, which he accommodated. He also noted that appellant worked a total of 22 days during the calendar year 2022 and attached a letter corroborating his attempts to secure a headset for her.

On February 27, 2023 OWCP received a statement from appellant in response to D.E.'s statement. Appellant noted that D.E. was not her postmaster "during most of the harassing times," and that "the postmaster for those times was [A.S.]." She noted that she was depressed that she could no longer carry mail due to her permanent work limitations. Appellant believed that this caused management and coworkers to have disdain for her. She felt worthless because she was unable to do much as a result of her work injuries.

By decision dated March 28, 2023, OWCP denied appellant's claim, finding that she had failed 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 March 28, 2023 appellant appealed OWCP's March 28, 2023 decision to the Board.

By order dated December 11, 2023, the Board vacated OWCP's March 28, 2023 decision and remanded the case to OWCP to administratively combine the present claim with OWCP File Nos. xxxxxx663, xxxxxx975, and xxxxxx026, as correct adjudication depended on cross-referencing these files,⁵ and issue a *de novo* decision with respect to appellant's occupational disease claim.⁶

In a February 27, 2024 follow-up development letter, OWCP requested additional evidence from appellant with respect to her statements about D.A. It afforded her 30 days to submit the requested information. In a separate development letter of even date, OWCP also requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

OWCP thereafter received an October 15, 2020 settlement agreement for a mediation between appellant and D.A. The agreement noted that management would submit paperwork for payment to appellant to cover dates of pay from July 29 through August 11, 2020.

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

⁶ *Supra* note 2.

In a March 4, 2024 response to OWCP’s questionnaire, D.A. indicated that on July 30, 2020 appellant was seated at her desk, and he received a customer complaint that she had been extremely rude while on the telephone with the customer. He walked into the bulk mail office and noticed that there was a customer standing there, so he asked appellant to step out of the office so that he could speak with her privately. Appellant responded that D.A. was not her boss and only A.S. could give her instructions. He responded that he was her immediate supervisor and requested that she speak with him outside of the office so that the discussion was not in front of a customer. Appellant stated, “This is bulls**t” and that she did not have to listen to him. D.A. then told her to clock out and go home due to her behavior outburst. He indicated that he never moved closer to her and never blocked her from going anywhere.

In a March 12, 2024 response to OWCP’s questionnaire, appellant indicated that on July 16, 2020 a customer on the telephone was asking for D.A. because she talked to him the day before and he stated that he would call her back, but never did. The customer was angry and would not get off the telephone until she talked to D.A., but D.A. would not answer the call even though he was paged several times. Appellant claimed that he wanted her to lie to the customer and state that he was not in the office. She denied being rude to any customer.

In a statement received by OWCP on March 12, 2024, appellant reiterated her issues with D.A. and noted that she had outside stressors, including that her mother passed away suddenly on January 24, 2022, and her dog passed away on May 25, 2022. She indicated that her “condition started as of July 19, 2016 and has gotten progressively worse.”

By *de novo* decision dated May 28, 2024, OWCP denied appellant’s claim, finding that she had failed to establish a compensable employment factor. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁷ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,⁸ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁹ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹⁰

⁷ *Supra* note 1.

⁸ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁹ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

¹⁰ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

To establish a claim for an emotional condition in the performance of duty, an employee must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his or her condition; (2) medical evidence establishing that he or she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his or her emotional condition.¹¹

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. In the case of *Lillian Cutler*,¹² the Board explained that there are distinctions as to the type of employment situations giving rise to a compensable emotional condition arising under FECA. There are situations where an injury or illness has some connection with the employment, but nevertheless does not come within coverage of FECA.¹³ When an employee experiences emotional stress in carrying out his or her employment duties and the medical evidence establishes that the disability resulted from an emotional reaction to such situation, the disability is generally regarded as due to an injury arising out of and in the course of employment. This is true when the employee's disability results from his or her emotional reaction to a special assignment or other requirement imposed by the employing establishment or by the nature of the work.¹⁴

Administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee and are not covered under FECA.¹⁵ However, the Board has held that where the evidence establishes error or abuse on the part of the employing establishment in what would otherwise be an administrative matter, coverage will be afforded.¹⁶ In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.¹⁷

¹¹ *R.B.*, Docket No. 19-0343 (issued February 14, 2020).

¹² 28 ECAB 125 (1976).

¹³ *M.R.*, Docket No. 18-0305 (issued October 18, 2018); *Robert W. Johns*, 51 ECAB 136 (1999).

¹⁴ *D.I.*, Docket No. 19-0534 (issued November 7, 2019); *T.G.*, Docket No. 19-0071 (issued May 28, 2019).

¹⁵ 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).

¹⁶ See *O.G.*, Docket No. 18-0359 (issued August 7, 2019); *D.R.*, Docket No. 16-0605 (issued October 17, 2016); *William H. Fortner*, 49 ECAB 324 (1998).

¹⁷ *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *Ruth S. Johnson*, 46 ECAB 237 (1994).

For harassment or discrimination to give rise to a compensable disability under FECA, there must be probative and reliable evidence that harassment or discrimination did in fact occur.¹⁸ Mere perceptions of harassment, retaliation, or discrimination are not compensable under FECA.¹⁹

ANALYSIS

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

Appellant has not attributed her emotional condition to the performance of her regular or specially assigned duties under *Cutler*.²⁰ Rather she has alleged that she sustained an emotional condition as a result of harassment, discrimination, and mishandling of her requests for reasonable accommodation. OWCP denied appellant's emotional condition claim on the grounds that she did not establish any compensable employment factors. The Board must, thus, initially review whether these alleged incidents and conditions of employment are covered employment factors under the terms of FECA.²¹

Appellant asserted that the employing establishment mishandled her reasonable accommodation requests to work from home. In correspondence dated October 18, 2022, a DRAC chairperson advised her that her request to work from home was not a reasonable accommodation and explained that she could not perform any aspect of the city carrier job from home, that there was no other work that was vacant and funded that she could perform from home, and that the employing establishment had no other telework opportunities. The Board has held that administrative and personnel matters, although generally related to the employee's employment, are administrative functions of the employer rather than the regular or specially assigned work duties of the employee, and are not covered under FECA.²² In determining whether the employing establishment has erred or acted abusively, the Board will examine the factual evidence of record to determine whether the employing establishment acted reasonably.²³ While appellant submitted e-mails, forms, and statements which concerned administrative and personnel matters, these communications did not substantiate that her requests were in fact mishandled by the employing establishment. The Board finds no evidence to demonstrate that management's handling of this request for accommodations was arbitrary or unfair.²⁴

¹⁸ *R.D.*, Docket No. 19-0877 (issued September 8, 2020); *T.G.*, Docket No. 19-0071 (issued May 28, 2019); *Marlon Vera*, 54 ECAB 834 (2003).

¹⁹ *Id.*; see also *Kim Nguyen*, 53 ECAB 127 (2001).

²⁰ *Supra* note 11.

²¹ *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Dennis J. Balogh*, 52 ECAB 232 (2001).

²² *T.L.*, Docket No. 18-0100 (issued June 20, 2019); *Matilda R. Wyatt*, 52 ECAB 421 (2001); *Thomas D. McEuen*, *supra* note 15.

²³ *J.W.*, Docket No. 17-0999 (issued September 4, 2018); *Ruth S. Johnson*, *supra* note 17.

²⁴ See *G.M.*, Docket No. 17-1469 (issued April 2, 2018).

Furthermore, although appellant expressed dissatisfaction with the actions of several superiors, 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.²⁵ The Board thus finds that she has not shown error or abuse by the employing establishment in the above-noted matter. Consequently, appellant has not established a compensable employment factor with respect to administrative or personnel matters.²⁶

Regarding appellant's allegations of harassment and discrimination, the Board finds that her allegations were vague and nonspecific, and therefore insufficient to establish a compensable employment factor.²⁷ Appellant did not submit witness statements or other corroborative evidence demonstrating that harassment and/or discrimination occurred as alleged.²⁸ Further, the employing establishment submitted statements from D.E. and D.A. denying harassment. Therefore, appellant has not established a compensable employment factor with respect to harassment or discrimination.

Accordingly, the Board finds that appellant has not established a compensable employment factor under FECA. Thus, appellant has not met her burden of proof to establish an emotional/stress-related condition in the performance of duty.²⁹

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

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

²⁵ *M.E.*, Docket No. 21-1340 (issued February 1, 2023); *T.C.*, Docket No. 16-0755 (issued December 13, 2016).

²⁶ *Id.*

²⁷ *See generally T.G.*, Docket No. 19-1668 (issued December 7, 2020).

²⁸ *See B.S.*, *supra* note 17.

²⁹ *See E.M.*, Docket No. 19-0156 (issued May 23, 2019); *D.C.*, Docket No. 18-0082 (issued July 12, 2018); *L.S.*, Docket No. 16-0769 (issued July 11, 2016); *D.D.*, 57 ECAB 734 (2006).

ORDER

IT IS HEREBY ORDERED THAT the May 28, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 25, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board