

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

Y.R., Appellant)	
)	
and)	Docket No. 24-0612
)	Issued: September 13, 2024
U.S. POSTAL SERVICE, SAYLORSBURG)	
POST OFFICE, Saylorsburg, PA, Employer)	
)	

Appearances: *Case Submitted on the Record*
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

DECISION AND ORDER

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

JURISDICTION

On May 17, 2024 appellant, through counsel, filed a timely appeal from an April 25, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (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 has met her burden of proof to establish an emotional/stress-related condition in the performance of duty, as alleged.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances as set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On August 12, 2020 appellant, then a 51-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed mental stress and anxiety due to factors of her federal employment. She noted that she first became aware of her claimed conditions and realized its relation to her federal employment on May 2, 2020. Appellant stopped work on June 1, 2020.

Along with the Form CA-2 was a statement from appellant wherein she further addressed the stressors believed to have contributed to her condition. She asserted that a series of events contributed to her condition, including a hostile work environment created by her coworkers, which made it impossible for her to do her job and sabotaged her training. Appellant asserted that her supervisor, D.K., ignored the hostile work environment and denied her elements of on-the-job training including receiving hands-on mail casing and sorting training from an experienced mail carrier. She alleged that she was denied a line of travel document necessary for proper training. Appellant asserted that the postmaster refused to answer work-related questions. She alleged disparate treatment when another rural carrier started at the employing establishment and received the training that appellant was denied. Appellant alleged that a coworker, A.G., was disgruntled because he believed her route should have been awarded to him. She asserted that the manager of post office operations, C.B., attempted to intimidate her on May 20 and 30, 2020 when she explained that she did not feel adequately trained and safe to deliver her mail route. Appellant asserted that she was discriminated against due to her ethnicity and physical disabilities stemming from a neck, back and shoulder injury sustained in a work-related motor vehicle accident on December 24, 2010.⁴ She noted that these incidents caused her to develop stress and erratic blood pressure. OWCP assigned this claim OWCP File No. xxxxxx121.

In addition to the above, appellant cited treatment by her coworkers as contributory to her condition. She claimed that she was ignored numerous times when she attempted to greet or bid farewell to many of her coworkers. Appellant also stated that it was only once the postmaster learned that she may be contacting human resources that she came to her and told her to come to her with any problems and to ignore the behavior of her coworkers. She stated that this confirmed that D.K. was fully aware of the way in which she was being treated. Appellant stated that her condition worsened after her requests for help to human resources were ignored for weeks. On

³ *Order Remanding Case*, Docket No. 21-1394 (issued June 22, 2022).

⁴ The Board notes that appellant has a prior claim for a traumatic injury (Form CA-1) sustained on December 24, 2010, to which OWCP assigned OWCP File No. xxxxxx416. OWCP accepted that claim for concussion without loss of consciousness, cervical strain, and lumbar strain.

May 20, 2020 C.B. was sent by human resources to address her complaints. Appellant claimed that C.B. arrived unannounced and attempted to intimidate her in a face-to-face meeting which was held on the loading dock where everyone could hear. She also felt that C.B. went too far in showing her complaints to D.K. Appellant stated that after this, the work environment worsened. On May 30, 2020 she told the postmaster that she did not feel adequately trained to safely deliver her route. Appellant stated that C.B attempted to intimidate her again and said that she had accelerated the end of her training from June 8, 2020, to June 1, 2020, and that she was directed to start delivering mail as of that date. She indicated that her condition worsened to the point that she could not return to work on June 1, 2020, as directed.

OWCP received an undated statement from D.K., who indicated that when she arrived at the employing establishment, appellant was a rural carrier assistant who had been working limited duty 11 hours per week. D.K. stated that other carriers did not really interact with appellant and she did not witness coworkers who were hostile or negative toward her. She noted that appellant was returned to regular carrier duty and was awarded a route held in abeyance until May 8, 2020, because she did not have a car and she needed driver training. In the interim, appellant was allowed to case her route, but another rural carrier associate would deliver the route. D.K. stated that she never sabotaged any training opportunities for appellant. She maintained that appellant had ample office time to learn her job duties. D.K. stated that she answered every question of appellant and offered to help her daily. Relative to vehicle training, she stated that she scheduled training, but the claimant had canceled and rescheduled. D.K. noted that when appellant became a regular carrier in May 2020, other employees were upset, and she heard them speaking amongst themselves on the workroom floor once or twice and she told them to stop. She also noted that an employee had an outburst on the workroom floor and she pulled that individual into her office and instructed him to stop this behavior. D.K. noted speaking to appellant about the outbursts and told her to report to her any further issues with her coworkers so that she could address them.

In a development letter dated August 27, 2020, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. By separate development letter of even date, OWCP also requested that the employing establishment provide additional information regarding her occupational disease claim, including comments from a knowledgeable supervisor regarding the accuracy of appellant's statements. It afforded both parties 30 days to respond.

Appellant submitted a copy of her statement, which accompanied the Form CA-2.

OWCP subsequently received additional evidence. Appellant filed a July 22, 2020 Equal Employment Opportunity (EEO) complaint and alleged discrimination based upon her ethnicity and physical disabilities stemming from a work-related motor vehicle accident. Appellant claimed that she was either denied training or her training was curtailed. She also claimed that she was denied a line of travel document which was necessary for proper training.

On July 30, 2020 the employing establishment dismissed the EEO complaint on the basis that there was no persuasive evidence that appellant was subject to any adverse employment action or denied any entitlement in relation to a term, condition, or privilege of employment as a result of the incident she raised in her complaint. It further found that the totality of the circumstances

and the actions complained of, were neither sufficiently severe nor pervasive enough to create a discriminatory hostile or abusive working environment.

OWCP also received an August 5, 2020 letter to appellant regarding a predisciplinary interview relative to attendance. In an August 11, 2020 e-mail, appellant responded, indicating that she had been out sick based upon doctor's advice since June 1, 2020. She noted that she had been in contact with the employing establishment and the occupational health nurse administrator. Appellant stated that she had complied with the employing establishment's directives and promptly sent copies of her medical evidence.

In an August 28, 2020 e-mail, C.B. indicated that she was unaware of appellant's allegations until she received an e-mail from an employing establishment human resources representative. Upon learning about appellant's allegations, she spoke to appellant in person at the employing establishment. C.B. indicated that she greeted appellant and spoke with her privately outside the facility. She informed appellant that she read her letter and understood her concerns and asked how she could help. C.B. advised that appellant was guarded and was not willing to speak with her but finally opened up and stated that the postmaster was "abusing her" on the workroom floor.

OWCP received a September 17, 2020 witness statement from W.P., a coworker, who stated that on the first day of appellant's training he overheard D.K. telling A.G. not to worry because appellant would not be getting any help. He witnessed D.K. tell a carrier that she would be training appellant, yet every time she would try to train or explain something to appellant, D.K. would say something about following social distancing rules or she would send her to deliver parcels. W.P. said that D.K. never assigned anyone else to help appellant learn the route. He indicated that a few weeks later another employee was hired and was not instructed about social distancing. W.P. stated that A.G. made it loud and clear that he was not happy that appellant got the regular carrier job. He overheard A.G. saying, "I'm not helping her with that route, if she put in for it she can do her damn job." Another time he overheard a coworker ask A.G. to smile to which he replied, "Go ahead, keep ... laughing, you wouldn't think it was funny if they took your job from you." W.P. reported this outburst to the postmaster and she said that she was going to talk with A.G. again and also have a meeting with all employees instructing them to stop talking about appellant. He further indicated that A.G. raised his voice many times while appellant was present. W.P. stated that there were other employees who would express that they agreed that A.G. should have gotten the job instead of appellant. He noted that appellant would call him with questions because other people would not help her and described the work environment as hostile.

In a September 21, 2020 e-mail, J.H., a driving trainer, noted that appellant had been scheduled for training four to five times. In a separate e-mail of event date, D.K. noted each of the dates that appellant was scheduled for driver training and did not attend.

In response to OWCP's development letter, on September 22, 2020, an employing establishment human resources specialist T.S. noted that appellant was a 13-year employee and a rural carrier since May 9, 2020. She noted that appellant did not have a vehicle to complete a driver training class and reportedly scheduled and rescheduled this training four to five times. T.S. stated, "[c]learly the fact that the claimant continuously needed to reschedule for training indicates that the claimant herself was prohibiting her own ability to proceed with her job position." She

spoke with C.B. about appellant's allegation of a hostile work environment and C.B. asserted that appellant never mentioned a hostile environment.

On September 24, 2020 M.M., a sales and service distribution associate, stated that the employing establishment was a hostile work environment. He claimed that prior to meeting appellant, he was told unflattering things about her, specifically, that she was gaming the system and faking her injuries. M.M. described appellant as an employee who went above and beyond what was needed of her. He explained that a coworker, A.G. stated that he deserved to be a regular carrier instead of appellant. M.M. described disparate treatment that appellant received including not being afforded the same liberties as other carriers that were assigned a new route, she was denied a line of travel, and no carriers were allowed to help her due to COVID-19 restrictions, yet this was not enforced with other employees.

In a September 24, 2020 response to OWCP's development letter, appellant stated that her interactions with D.K. and C.B. led to her illness. She stated that while the hostile work environment began earlier, her medical condition began on May 2, 2020 when she realized that management had joined her coworkers in their efforts to have her fired or quit. Appellant claimed that her training was sabotaged, and the classroom/driver training was only initiated after she contacted the union. She described the hostile work environment and attached a series of e-mails she sent to the head of the employing establishment human resources office, S.W. Appellant stated that due to her work environment, her stress and anxiety had become increasingly difficult to manage and made her ill. She confirmed that prior to this incident, she had never seen a psychiatrist or psychologist, although she did see a counselor for marital issues.

On November 3, 2020 T.S. reported that appellant worked 12 hours per week in 2019 and 6 hours per week in 2020. Appellant returned to work in February 2020 but stopped on June 1, 2020 and during this period she only averaged 11 hours per week. T.S. related that appellant's domestic issues could be contributory to her alleged condition.

By decision dated November 20, 2020, OWCP denied appellant's emotional condition claim, finding that the evidence of record was insufficient to establish that a medical condition arose during the course of employment and within the scope of compensable work factors. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On December 4, 2020 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated February 3, 2021, an OWCP hearing representative vacated the November 20, 2020 decision and remanded the case for further development. The hearing representative found that OWCP failed to properly develop the factual component of the claim and addressed only a few of the stress incidents set forth in appellant's numerous personal statements prior to issuance of the November 20, 2020 decision.

In a development letter dated February 17, 2021, OWCP requested additional information from the employing establishment. It afforded the employing establishment 30 days to respond.

On February 25, 2021 C.B. reiterated that she was unaware of a hostile work environment. She indicated that once appellant was awarded a route, she was entitled to vehicle training. C.B. noted that driver training was postponed/rescheduled due to appellant not being able to attend.

On March 12, 2021 D.K. responded to OWCP's development letter on behalf of the employing establishment, indicating that on May 9, 2020 appellant was awarded a route. She noted that because appellant was a rural carrier assistant for 15 years, she received all required training but needed to be sent to driving training, which could not be scheduled immediately. In the meantime, appellant cased her mail route while another carrier delivered the route. D.K. noted that rural carrier assistants that converted to regular routes were not entitled to additional training, but she permitted another carrier to help appellant as much as possible while keeping socially distanced. She reported cancelling several driver training sessions because appellant did not have a vehicle. D.K. asserted that she did not sabotage appellant's training. She confirmed that A.G. was "agitated and angry about the entire situation" and she spoke to him daily to calm him down. D.K. further noted that every carrier, and rural carrier associate was "angry about the entire past situation." She reported speaking to A.G. on several occasions about his negative attitude and his comments while on the workroom floor. D.K. indicated that A.G. had an outburst and his behavior was addressed. With regard to W.P.'s witness statement she indicated that W.P. did not overhear her entire conversation with A.G. and took it out of context. D.K. asserted that she uniformly enforced the social distancing rules with employees. She indicated that appellant was absent since June 2020 and was without leave and continued to be absent, which caused her to be issued a letter of warning.

On March 15, 2021 A.B., an employing establishment health and resource management manager, indicated that appellant was a rural carrier assistant for 15 years and was not entitled to additional training. As a courtesy, appellant was assigned to driving training. A.B. noted that appellant was scheduled for drivers training, which was not completed because she did not have a vehicle. She advised that social distancing rules were implemented throughout the employing establishment.

By *de novo* decision dated April 5, 2021, OWCP denied appellant's emotional condition claim, finding that the evidence of record was insufficient to establish that a medical condition arose during the course of employment and within the scope of compensable work factors. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

OWCP received additional evidence. On March 14, 2021 J.S., a coworker, indicated that he overheard D.K. speaking to A.G. stating that she was not going to provide assistance to appellant. He indicated that D.K. used social distancing to prevent employees from training appellant.

On April 8, 2021 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on July 7, 2021.

By decision dated September 3, 2021, OWCP's hearing representative affirmed the April 5, 2021 decision.⁵

Appellant appealed to the Board. By order dated June 22, 2022, the Board set aside the September 3, 2021 decision and remanded the case directing OWCP to administratively combine OWCP File Nos. xxxxxx416 and xxxxxx121, to be followed by other such development as deemed necessary, and the issuance of a *de novo* merit decision.⁶

In a development letter dated September 21, 2022, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond. No additional evidence was received.

Upon return of the case record, OWCP administratively combined OWCP File Nos. xxxxxx121 and xxxxxx416, with the latter serving as the master file.

By *de novo* decision dated October 28, 2022, OWCP denied appellant's emotional condition claim, finding that the evidence of record was insufficient to establish that a medical condition arose during the course of employment and within the scope of compensable work factors. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On November 7, 2022 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on April 11, 2023.

By decision dated June 23, 2023, OWCP's hearing representative affirmed the October 28, 2022 decision.

OWCP received additional evidence, including statements from coworkers supporting her allegations. Appellant also submitted medical evidence regarding treatment for her alleged emotional/stress-related condition.

On April 17, 2024 appellant, through counsel, requested reconsideration.

By decision dated April 25, 2024, OWCP denied modification of the June 23, 2023 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁷ 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

⁵ *Id.*

⁶ *Supra* note 3.

⁷ *Supra* note 2.

United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA,⁸ 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.⁹ 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.¹⁰

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.¹¹

Workers' compensation law does not apply to each and every injury or illness that is somehow related to a claimant'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 compensable.¹² 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 to hold a particular position.¹³

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.¹⁴ Where, however, 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.¹⁵

⁸ *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁹ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

¹⁰ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

¹¹ *See C.C.*, Docket No. 21-0283 (issued July 11, 2022); *S.K.*, Docket No. 18-1648 (issued March 14, 2019); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

¹² *A.C.*, Docket No. 18-0507 (issued November 26, 2018); *Pamela D. Casey*, 57 ECAB 260, 263 (2005); *Lillian Cutler*, 28 ECAB 125, 129 (1976).

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

¹⁴ *See R.M.*, Docket No. 19-1088 (issued November 17, 2020); *Thomas D. McEuen*, 41 ECAB 387 (1990), *reaff'd on recon.*, 42 ECAB 556 (1991).

¹⁵ *L.R.*, Docket No. 23-0925 (issued June 20, 2024); *M.A.*, Docket No. 19-1017 (issued December 4, 2019).

For harassment or discrimination to give rise to a compensable employment factor under FECA, there must be probative and reliable evidence that harassment or discrimination did in fact occur.¹⁶ Mere perceptions of harassment are not compensable under FECA.¹⁷

ANALYSIS

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

OWCP denied appellant's emotional/stress-related condition claim, finding that she had not established a compensable employment factor. The Board must, therefore, initially review whether the alleged incidents are covered employment factors under the terms of FECA.

Appellant attributed her condition to harassment by a coworker, A.G., which made it impossible for her to do her job and sabotaged her training. She alleged that A.G., was disgruntled because he believed her route should have been awarded to him. Harassment and discrimination by supervisors and coworkers, if established as occurring and arising from the performance of work duties, can constitute a compensable work factor.¹⁸ A claimant, however, must substantiate allegations of harassment and discrimination with probative and reliable evidence.¹⁹

In this case, the record establishes that appellant's supervisor, D.K., was aware of the harassment and noted that when appellant became a regular carrier in May 2020, other employees were upset, and she heard them speaking amongst themselves on the workroom floor once or twice and she told them to stop. She also noted that A.G. had an outburst on the work room floor, and she pulled him into her office and instructed him to stop this behavior. Appellant submitted statements from her coworkers in support of her allegation of harassment. In a witness statement dated September 17, 2020, W.P., corroborated the harassment allegation and stated that A.G. made it loud and clear that he was not happy that appellant got the regular carrier job. He overheard A.G. saying, "I'm not helping her with that route, if she put in for it she can do her damn job." Another time, A.G. stated, "Go ahead, keep ... laughing, you wouldn't think it was funny if they took your job from you." W.P. reported this outburst to D.K. and she said that she was going to talk with A.G. again and also have a meeting with all employees instructing them to stop talking about appellant. He further indicated that A.G. raised his voice many times while appellant was present. W.P. stated that other employees would express that they thought A.G. should have got the job instead of appellant. Another coworker, M.M., described disparate treatment against appellant, including not being afforded the same liberties as other carriers that were assigned a new route, being denied a line of travel, and being denied training assistance because no carriers were allowed to help her due to COVID-19 restrictions, which was not enforced with other employees. The employing establishment found that the incident did not meet the threshold for harassment. However, the Board has held that a pattern of events is not required to constitute

¹⁶ See *E.G.*, Docket No. 20-1029 (issued March 18, 2022); *S.L.*, Docket No. 19-0387 (issued October 1, 2019); *S.B.*, Docket No. 18-1113 (issued February 21, 2019).

¹⁷ *Id.*

¹⁸ See *E.G.*, *supra* note 16; *M.S.*, Docket No. 19-1589 (issued October 7, 2020).

¹⁹ *Id.*

harassment under FECA.²⁰ The Board thus finds that appellant has established a compensable employment factor of harassment.

Appellant attributed the remainder of her emotional condition to administrative and personnel actions, which are not compensable absent a showing of error or abuse on the part of the employing establishment.²¹ These include leave and attendance issues,²² and assignment of work.²³ Appellant has not submitted corroborating evidence of error or abuse in these administrative matters, and thus, has not established a compensable employment factor in this regard.²⁴

Appellant asserted that D.K. ignored the hostile work environment, refused to answer work-related questions, and provided training to another new rural carrier that she was denied. Mere disagreement or dislike of actions taken by a supervisor will not be compensable absent evidence establishing error or abuse.²⁵ Further, an employee's reaction to an administrative or personnel matter is not covered by FECA, unless there is evidence that the employing establishment acted unreasonably.²⁶ Because appellant has not presented sufficient evidence to establish that her supervisor acted unreasonably or that the employing establishment engaged in error or abuse in these personnel matters, she has failed to identify a compensable work factor relating to these allegations.²⁷

Appellant alleged that D.K. abused her on the workroom floor in relation to keeping tubs of mail by her case. She also asserted that C.B. attempted to intimidate her on May 20 and 30, 2020 when she explained that she did not feel adequately trained and safe to deliver her mail route. The employing establishment responded that appellant was informed that keeping tubs at her case was a safety hazard and she was instructed to keep the tubs on the dock. Appellant did not provide specific examples of how this allegation contributed to abuse. Verbal altercations and difficult relationships with supervisors/managers, when sufficiently detailed and supported by the record, may constitute compensable factors of employment. However, this does not imply that every abusive or threatening statement uttered in the workplace will give rise to coverage under FECA.²⁸

²⁰ See *E.G.*, *supra* note 16.

²¹ *A.C.*, *supra* note 12; *Janet I. Jones*, 47 ECAB 345, 347 (1996), *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993); *Apple Gate*, 41 ECAB 581, 588 (1990); *Joseph C. DeDonato*, 39 ECAB 1260, 1266-67 (1988).

²² *Elizabeth Pinero*, 46 ECAB 123, 130 (1994).

²³ *Y.B.*, Docket No. 16-0194 (issued July 24, 2018); *Robert W. Johns*, 51 ECAB 137 (1999).

²⁴ *R.B.*, Docket No. 19-0343 (issued February 14, 2020); *R.V.*, Docket No. 18-0268 (issued October 17, 2018).

²⁵ *R.B.*, Docket No. 19-1256 (issued July 28, 2020); *D.J.*, Docket No. 16-1540 (issued August 21, 2018); *Linda Edwards-Delgado*, 55 ECAB 401 (2004).

²⁶ *Id.*; see also *Alfred Arts*, 45 ECAB 530 (1994).

²⁷ *Id.* See also *B.G.*, Docket No. 18-0491 (issued March 25, 2020).

²⁸ *C.R.*, Docket No. 19-1721 (issued June 17, 2020).

While D.K. and C.B. indicated that they spoke with appellant there is no evidence that this rose to the level of verbal abuse.²⁹

Appellant alleged that D.K. denied her elements of on-the-job training, including receiving hands-on mail casing and sorting training from an experienced mail carrier. She also alleged that she was denied a line of travel document necessary for proper training. D.K. responded that training was limited due to restrictions related to COVID-19 that were implemented agency wide. The management policy implemented was to ensure employees were social distancing by not allowing two carriers to drive in the same vehicle together. Additionally, the employing establishment responded that appellant was not entitled to any additional training on the route as she was not a newly hired rural carrier associate.

Appellant asserted that she was discriminated against due to her ethnicity and physical disabilities stemming from a neck, back and shoulder injury sustained in a work-related motor vehicle accident on December 24, 2010. She filed an EEO complaint due to alleged discrimination based on race, national origin and disability. Appellant, however, did not submit corroborative evidence in support of her allegations of discrimination. She did not submit a statement that contained a clear, detailed account of specific acts of discrimination.³⁰ Further, appellant did not submit the final findings of any complaint or grievance she might have filed with respect to these matters, such as an EEO complaint or a grievance filed with the employing establishment.³¹ Rather, the record indicates that the employing establishment dismissed the EEO complaint on the basis that there was no persuasive evidence that appellant was subject to any adverse employment action or denied any entitlement in relation to a term, condition or privilege of employment as a result of the incident she raised in her complaint. It further found that the totality of the circumstances and the actions complained of, were neither sufficiently severe nor pervasive enough to create a discriminatory hostile or abusive working environment. Therefore, she has not established a compensable employment factor with respect to the claimed discrimination.

As OWCP found that there were no compensable employment factors, it did not analyze or develop the medical evidence. Thus, the Board will set aside OWCP's decision and remand the case for consideration of the medical evidence to determine whether appellant has established an emotional condition in the performance of duty causally related to the compensable employment factor.³² After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

²⁹ *Y.B.*, *supra* note 23.

³⁰ *See B.S.*, Docket No. 19-0378 (issued July 10, 2018).

³¹ *See generally C.T.*, Docket No. 08-2160 (issued May 7, 2009) (some statements may be considered abusive and constitute a compensable factor of employment, but not every statement uttered in the workplace is covered by FECA).

³² *K.M.*, Docket No. 22-1000 (issued November 9, 2022); *E.A.*, Docket No. 19-0582 (issued April 22, 2021).

ORDER

IT IS HEREBY ORDERED THAT the April 25, 2024 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 13, 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