

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1038

Filed 19 March 2025

North Carolina Industrial Commission File No. 19-050540

JAMES K. MUSE, Employee, Plaintiff,

v.

DAIMLER TRUCKS NORTH AMERICA, Employer, SELF-INSURED (SEDGWICK CMS, Third-Party Administrator), Defendant.

Appeal by Plaintiff from order entered 28 June 2023 by the North Carolina Industrial Commission. Heard in the Court of Appeals 15 May 2024.

*Roberts Law Firm, PA, by Attorney Scott W. Roberts, for the plaintiff-appellant.*

*Stiles Byrum and Horne, L.L.P., by Attorney Briayn G. Smith, for defendants-appellees.*

STADING, Judge.

James K. Muse (“Plaintiff”) appeals from an opinion and award issued on 28 June 2023 by the North Carolina Industrial Commission (the “Full Commission”). The Full Commission reversed the deputy commissioner’s decision from 8 June 2022 and held that Plaintiff did not suffer an “accident” as defined by the North Carolina Workers’ Compensation Act (the “Act”). Having carefully reviewed the record, the briefs, and the arguments of counsel, we affirm.

## **I. Background**

Plaintiff has been employed by Defendant-Employer, Daimler Trucks North America LLC (“Defendant”), since 1984. Throughout his career, Plaintiff has worked in multiple departments and was often a “team leader” with supervisory responsibilities for job performance, production, and line efficiency. As of August 2018, Plaintiff served as a production technician in the final cab department and a tour guide. Before August 2018, Plaintiff had received only one attendance warning and had never been called to a human resources (“HR”) or management meeting for disciplinary action.

On 3 August 2018, Plaintiff attended a regularly scheduled tour huddle meeting with Kristin Rowe, executive assistant to the plant manager and tour coordinator, and coworkers Jay Lambert and Joe Davis. During this meeting, Plaintiff and Mr. Davis joked that Plaintiff had not received a pink shirt for a coworker’s cancer-support effort, likening it to “secret emails” they joked Plaintiff never received. Ms. Rowe asked which celebrations Plaintiff believed he had missed, and after repeated inquiries, he revealed that he did not receive an invitation to an employee’s retirement celebration. Plaintiff briefly stepped out; upon his return, Ms. Rowe searched for the email invitation. After looking, Ms. Rowe told Plaintiff he was informed about the retirement celebration.

Mr. Davis perceived Ms. Rowe was upset and later told Plaintiff to apologize, but Plaintiff felt he had done nothing wrong. Ms. Rowe also recalled Plaintiff using

an inappropriate term in her presence; she reported the incident to HR on 6 August 2018. Mr. Davis did not recall the term used in Ms. Rowe's presence, although he acknowledged that he and Plaintiff had privately used it in other contexts.

On 8 August 2018, Plaintiff received a call from his supervisor, Scott Stafford, directing him to attend a meeting ("disciplinary meeting") and suggesting he bring a union representative. The union representative, Andy Wood, arrived along with another union representative, Chris Redding. Mr. Redding was asked to leave by HR manager Eric Moser before the meeting. In the meeting, Mr. Moser accused Plaintiff of using an inappropriate term in front of Ms. Rowe. He slid a disciplinary action notice across the table for Plaintiff to sign stating Plaintiff was receiving a documented verbal warning for abusive language. Plaintiff denied using that phrase in Ms. Rowe's presence and refused to sign the warning.

According to Plaintiff, Mr. Moser's tone then became angry. Mr. Moser accused Plaintiff of bullying and harassing Ms. Rowe, claiming that three witnesses confirmed the behavior, but he refused to disclose their identities or specific statements. Mr. Moser presented a second disciplinary action notice—a final written warning for threatening, intimidating, harassing, or coercing employees—which Plaintiff again refused to sign. Plaintiff left the meeting feeling shocked and blindsided; he immediately wrote a statement recalling the disputed events. Mr. Wood found Mr. Moser's conduct highly unusual. In particular, Mr. Wood was concerned about the refusal to allow a second union representative to stay and take notes and the quick

production of two disciplinary notices. Mr. Moser testified that he had spoken with the other witnesses before the meeting, and believed they corroborated Ms. Rowe's complaint. Mr. Hopper, the final cab manager, attended the disciplinary meeting but did not initially know its purpose; he felt Mr. Moser had to be direct about a serious rule violation.

Following Plaintiff's submission of a grievance appeal, Defendant upheld the discipline on 12 December 2018. The matter was further challenged, resulting in a settlement that reduced the final warning's duration from twelve months to six months, effectively removing it from Plaintiff's record on 8 February 2019.

Plaintiff filed a workers' compensation claim, alleging psychological injuries, stemming from the disciplinary meeting. Plaintiff testified he developed anxiety, depression, nightmares, intrusive thoughts, and difficulties controlling anger. Initially, Plaintiff sought help through the Employee Assistance Program and then with his primary care physician, Dr. Brian Wysong, around April 2019. Plaintiff was taken out of work briefly in August 2019, returned in September 2019, and was again written out of work in November 2019, remaining out of work thereafter. Dr. Wysong attributed Plaintiff's anxiety, depressive disorder, and insomnia to the disciplinary incident, based mainly on Plaintiff's account. Dr. Jiping Xaio, a psychiatrist at CaroMont, similarly relied on Plaintiff's history in concluding Plaintiff's symptoms were work-related stress exacerbated by the disciplinary process.

Plaintiff's claim was heard by a deputy commissioner on 1 July 2021. On 8 June 2022, the deputy commissioner issued an opinion and award, determining that the disciplinary meeting qualified as an accident under the Act and caused Plaintiff's psychiatric conditions, rendering him temporarily disabled since 18 November 2019. Defendant appealed to the Full Commission, which unanimously reversed the deputy commissioner's opinion and award, concluding that the disciplinary meeting was not an accident under the Act and denying compensability.

Plaintiff appealed the Full Commission's decision. Throughout this time, Plaintiff continued to accrue seniority and receive disability benefits, but he maintains that the disciplinary meeting triggered enduring psychological issues preventing his return to work.

## **II. Jurisdiction**

This matter is properly before our Court pursuant to N.C. Gen. Stat. § 7A-29(a) (2023) because it is a final decision of the North Carolina Industrial Commission.

## **III. Analysis**

Plaintiff presents eight issues on appeal: Whether the Full Commission committed error (1) in concluding that the disciplinary meeting was not an accident; (2) in concluding that the disciplinary meeting was not an interruption of Plaintiff's normal work routine; (3) by wholly disregarding competent evidence; (4) by finding that the disciplinary meeting was a routine meeting per a union agreement and not an interruption of Plaintiff's work routine; (5) by finding that Plaintiff was not

disciplined any differently than other employees in the same situation; (6) by failing to make findings of fact about the disciplinary meeting being a first of its kind attended by Plaintiff; (7) by failing to make findings of fact regarding Joe Davis’s deposition; and (8) in finding that Plaintiff’s interaction with Ms. Rowe on 3 August 2018 led to a predictable and foreseeable personnel action.

After careful review, we hold the Full Commission’s findings of fact are supported by competent evidence; in turn, those findings of fact adequately support its conclusion of law—that Plaintiff’s injuries did not result by an “accident” during the course of his employment. N.C. Gen. Stat. § 97-2(6) (2023).

“Appellate review of an award from the Industrial Commission is generally limited to two issues: (i) whether the findings of fact are supported by competent evidence, and (ii) whether the conclusions of law are justified by the findings of fact.” *Chambers v. Transit Mgmt.*, 360 N.C. 609, 611, 636 S.E.2d 553, 555 (2006). “Competent evidence is evidence ‘that a reasonable mind might accept as adequate to support the finding.’” *Eley v. Mid/E. Acceptance Corp. of N.C., Inc.*, 171 N.C. App. 368, 369, 614 S.E.2d 555, 558 (2005) (citation omitted). “Unchallenged findings of fact are presumed to be supported by competent evidence and are binding on appeal.” *Fields v. H&E Equip. Servs., LLC*, 240 N.C. App. 483, 485–86, 771 S.E.2d 791, 793 (2015) (citation omitted).

The Commission’s conclusions of law are reviewed *de novo*. *Blackwell v. N.C. Dept. of Pub. Instruction*, 282 N.C. App. 24, 25, 870 S.E.2d 612, 613 (2022). Under *de*

*novoo* review, we consider “the matter anew and freely substitute[ ] [our] own judgment for that of the lower tribunal.” *Fields*, 240 N.C. App. at 486, 771 S.E.2d at 793–94 (citation omitted). Conclusions of law are reviewed *de novo* to determine whether the findings of fact support them. *Whitfield v. Lab. Corp. of Am.*, 158 N.C. App. 341, 348, 581 S.E.2d 778, 783 (2003). “Whether an injury arises out of and in the course of a claimant’s employment is a mixed question of fact and law, and our review is thus limited to whether the findings and conclusions are supported by the evidence.” *Creel v. Town of Dover*, 126 N.C. App. 547, 552, 486 S.E.2d 478, 480 (1997).

The Act “does not provide compensation for injury, but only for injury by accident.” *O’Mary v. Clearing Corp.*, 261 N.C. 508, 510, 135 S.E.2d 193, 194 (1964). “Injury and accident are separate concepts, and there must be an accident which produces the injury before an employee can be awarded compensation.” *Swift v. Richardson Sports, Ltd.*, 173 N.C. App. 134, 138, 620 S.E.2d 533, 536 (2005). “To determine whether the cause of action . . . comes within the provisions of the [Workers’ Compensation] Act—that is, whether it arises out of and in the course of employment—we must apply the ‘applicability test.’” *Alderete v. Sunbelt Furniture Xpress, Inc.*, 294 N.C. App. 1, 5, 901 S.E.2d 865, 869 (2024) (citation omitted). “An action comes within the provisions of the Act if: (1) the injury was caused by an accident; (2) the injury was sustained in the course of the employment; and (3) the injury arose out of the employment.” *Marlow v. TCS Designs, Inc.*, 288 N.C. App. 567, 572, 887 S.E.2d 448, 453 (2023); N.C. Gen. Stat. § 97-2(6) (An injury is

compensable only if it is caused by an “accident,” and the accident arises “out of and in the course of employment . . .”). “The claimant bears the burden of proving these elements.” *Smith v. Pinkerton’s Sec. & Investigations*, 146 N.C. App. 278, 280, 552 S.E.2d 682, 684 (2001) (citation omitted).

The Act defines an “accident” as “an unlooked for and untoward event which is not expected or designed by the person who suffers the injury,’ and which involves ‘the interruption of the routine of work and the introduction thereby of unusual conditions likely to result in unexpected consequences.”’ *Pitillo v. N.C. Dep’t of Envtl. Health & Nat. Res.*, 151 N.C. App. 641, 645, 566 S.E.2d 807, 811 (2002) (citations omitted). “[O]nce an activity, even a strenuous or otherwise unusual activity, becomes a part of the employee’s normal work routine, an injury caused by such activity is not the result of an interruption of the work routine or otherwise an ‘injury by accident’ under the Workers’ Compensation Act.” *Bowles v. CTS of Asheville, Inc.*, 77 N.C. App. 547, 550, 335 S.E.2d 502, 504 (1985).

#### **A. Findings of Fact Nos. 35 – 40<sup>1</sup>**

Plaintiff first submits that the Full Commission erroneously determined findings of fact nos. 35 through 40 because they failed to consider all the evidence

---

<sup>1</sup> “Whether a statement is an ultimate fact or a conclusion of law depends upon whether it is reached by natural reasoning or by an application of fixed rules of law.” *Brown v. Charlotte-Mecklenburg Bd. of Educ.*, 269 N.C. 667, 670, 153 S.E.2d 335, 338 (1967) (citation omitted). “To the extent the [Full Commission’s] particular interpretations require application of legal principles to the facts, they are mixed questions of law and fact.” *Town of Apex v. Rubin*, 277 N.C. App. 328, 332 n.5, 858 S.E.2d 387, 392 (2021).



offered. Specifically, Plaintiff contends that the Full Commission failed to consider the testimony of Plaintiff and Mr. Wood. Since all of these findings of fact are supported by competent evidence and other unchallenged findings, we disagree. *See Eley*, 171 N.C. App. at 369, 614 S.E.2d at 558 (citation omitted) (“Competent evidence is evidence ‘that a reasonable mind might accept as adequate to support the finding.’”); *see also Smith*, 146 N.C. App. at 280, 552 S.E.2d at 684 (“If there is any competent evidence to support the Commission’s findings of fact, those findings are deemed conclusive on appeal even if there is evidence supporting contrary findings.”).

“Upon an appeal from the Industrial Commission, the reviewing court may not find facts in addition to those found by the Commission, even though there is in the record evidence to support such a finding . . . .” *Brown v. Charlotte-Mecklenburg Bd. of Educ.*, 269 N.C. 667, 670, 153 S.E.2d 335, 338 (1967) (citation omitted); *Bailey v. Sears Roebuck & Co.*, 131 N.C. App. 649, 653, 508 S.E.2d 831, 834 (1998) (“This court is not at liberty to supplement the Commission’s findings, but is limited to determining if those findings are supported by competent evidence.”). When determining “issues of fact, the Industrial Commission is the sole judge of the credibility of the witnesses and the weight to be given to their testimony. The Commission may accept or reject the testimony of a witness solely on the basis of whether it believes the witness or not.” *Hilliard v. Apex Cabinet Co.*, 305 N.C. 593, 595, 290 S.E.2d 682, 683–84 (1982). “If there is any competent evidence to support the Commission’s findings of fact, those findings are deemed conclusive on appeal

even if there is evidence supporting contrary findings.” *Smith*, 146 N.C. App. at 280, 552 S.E.2d at 684.

The challenged findings of fact provide:

35. Based upon a preponderance of the evidence in view of the entire record, the Full Commission finds that Plaintiff’s disagreement with Ms. Rowe during the August 3, 2018 “tour Huddle Meeting” led to a predictable and foreseeable personnel action (i.e. the August 8, 2018 HR meeting) with Mr. Moser and subsequent [disciplinary action notices].

36. Based upon a preponderance of the evidence in view of the entire record, the Full Commission finds the events following the August 3, 2018 “Tour Huddle Meeting” up to, and including, Plaintiff’s August 8, 2018 HR meeting with Mr. Moser, were part of an established sequence of HR operations (i.e. investigation of a harassment complaint) and conducted pursuant to the Union Contract Article 15, Section 6, Standards for Discipline and Discharge. In particular, the Full Commission finds the HR meeting of August 8, 2018, was the culmination of an established sequence of HR operations initiated when Ms. Rowe filed a complaint of harassing behavior and followed by an HR investigation by Mr. Moser.

37. Based upon a preponderance of the evidence in view of the entire record, the Full Commission additionally finds the harassment investigation was processed by HR in a reasonable manner and the August 8, 2018 HR meeting was not unusual or a significant deviation from the established sequence of events typically followed by Defendant’s HR. The Full Commission further finds that Plaintiff was not disciplined any differently than any other employee would have been in this situation. Additionally, the Full Commission further finds that it was common for Defendant to conduct disciplinary meetings with employees unannounced and that this was not out of the ordinary.

38. Based upon a preponderance of the evidence in view of the entire record, the Full Commission further finds that although Plaintiff had not attended a disciplinary HR meeting in years, the August 8, 2018 meeting was nonetheless a routine meeting conducted pursuant to the Union Agreement and not an interruption of the work routine.

39. Based upon a preponderance of the evidence in view of the entire record, the Full Commission further finds that during the August 8, 2018 HR meeting Plaintiff was provided an opportunity to respond to Ms. Rowe's allegations and either could not or would not respond. Accordingly, the Full Commission finds that Plaintiff was not deprived of ordinary industrial due process provided under the union contract.

40. The Full Commission finds Plaintiff's testimony regarding Mr. Moser's demeanor in the August 8, 2018 HR meeting, in which Mr. Moser was allegedly abusive and angry, not credible. Plaintiff's hearing testimony is contradicted by Mr. Moser and Mr. Hopper, who described Mr. Moser's demeanor as "direct" and not angry. In reaching this finding, the Commission also considers that Plaintiff was wholly unaware of Ms. Rowe's tearful reaction during their interaction on August 3, 2018, and thus affords little weight to his testimonial evidence concerning Mr. Moser's temperament during the August 8, 2018 HR meeting.

As to findings of fact nos. 35 through 38, Plaintiff maintains that the evidence shows: he did not initiate the disciplinary meeting; had no idea why it was being called; was completely surprised; and it was conducted contrary to Defendant's disciplinary policies. Although Plaintiff was not provided advance notice of the meeting, Mr. Moser testified that Plaintiff was "not treated differently" than any other employee facing a disciplinary meeting. *See Rackley v. Coastal Painting*, 153

N.C. App. 469, 472, 570 S.E.2d 121, 124 (2002) (“[D]efendants’ interpretation of the evidence is not the only reasonable interpretation. It is for the Commission to determine the credibility of the witnesses, the weight to be given the evidence, and the inferences to be drawn from it.”). Mr. Moser also testified, “[n]obody knows when they are about to be disciplined . . . before it happens . . . .” To that end, Mr. Moser stated, “once we collect the information on our side, we ask the individual that is going to . . . receive the discipline if needed to come into the meeting and at that point they’re given an opportunity to explain the facts. They’re not given time to prepare.” Mr. Hopper also testified that he has attended several HR meetings where he did “not know[ ] what it was for” ahead of time. Furthermore, unchallenged findings of fact nos. 9 and 10 confirm that the meeting was conducted in accordance with company policy, undermining Plaintiff’s argument:

9. It is Defendant’s policy that employees are not forewarned of disciplinary events. However, employees are provided an opportunity to explain themselves. Mr. Moser explained that this process constitutes “notice to the accused” outlined under Article 15, Section 6 of the Union Agreement between Defendant and UAW union.

10. Specifically, Union Agreement, Article 15, Section 6 entitled “Standards for Discipline and Discharge, outlines the four elements of “industrial due process” for Defendant’s employees. Under this Section, Defendant is obligated to conduct “a prompt and thorough investigation” and “render a decision and take action within a reasonable time based upon the nature and consequence of the allegations and circumstances involved in each situation.” Moreover, the accused employee is provided notice of the specific allegations of wrongdoing or misconduct and an

opportunity to “respond to the allegations before any final disciplinary decision is made and imposed.”

*See Fields*, 240 N.C. App. at 485–86, 771 S.E.2d at 793.

Plaintiff next challenges finding of fact no. 39 to the extent that he “was not given an opportunity to adequately respond to the allegations.” Plaintiff maintains that his own testimony, coupled with Mr. Wood’s testimony, shows that he was not given a meaningful chance to tell his version of the events. However, Mr. Moser and Mr. Hopper testified that Plaintiff was given the opportunity to share his side of the story. *See Rackley*, 153 N.C. App. at 472, 570 S.E.2d at 124. Mr. Hopper added that despite having this opportunity, Plaintiff “did [not] discuss much about the topic he was there for.” Rather, Plaintiff “wanted to talk about . . . how stellar his career was and how he’s never been in any trouble . . . .” Mr. Moser similarly stated that Plaintiff “was given ample time to give . . . his facts and his information,” that “[h]e would not talk about the meeting in the beginning,” and that Plaintiff “talked about his family, his love for Freightliner, [and] his time here. That was it.” Moreover, unchallenged finding of fact no. 16 confirms that Plaintiff was afforded such an opportunity:

16. Mr. Moser testified Plaintiff talked in circles at the August 8, 2018 meeting. Mr. Moser attempted to redirect Plaintiff back to the incident many times, but Plaintiff would not talk about the August 3, 2018 meeting and instead continued to talk about “his family, his love for Freightliner, his time here [at Daimler] . . . .” Mr. Moser testified that Plaintiff called Ms. Rowe a “drama queen” and eventually Mr. Moser stopped the discussion. Mr. Moser then issued the discipline notices, which Plaintiff refused to sign. Mr. Moser explained that it is not

uncommon for discipline to already be written out when a meeting is called. Mr. Moser testified issuing discipline is an uncomfortable situation and disagreed with Plaintiff that his tone in the meeting was abusive. Mr. Moser testified that Plaintiff was not disciplined any differently than any other employee would have been in this situation.

*See Fields*, 240 N.C. App. at 485–86, 771 S.E.2d at 793.

Lastly, Plaintiff asserts that finding of fact no. 40 is not supported by competent evidence since he and Mr. Wood testified that Mr. Moser used an abusive and angry tone during the disciplinary meeting. But Mr. Moser and Mr. Hopper testified that Mr. Moser’s tone of voice was neither abusive nor angry. Rather, Mr. Hopper stated that Mr. Moser’s tone was “direct.” Mr. Moser added, “It’s an uncomfortable situation. No one wants to receive discipline. I don’t enjoy issuing it no more than they . . . like receiving it.” Although Plaintiff and Mr. Wood testified that Mr. Moser appeared to be angry, the Full Commission is allowed to “determine the credibility of the witnesses, the weight to be given to the evidence, and the inferences to be drawn from it.” *Rackley*, 153 N.C. App. at 472, 570 S.E.2d at 124.

We discern no reason to disturb the Full Commission’s findings of fact as they are supported by both competent evidence and other unchallenged findings. The Full Commission also determined the credibility of the witnesses who testified, including Mr. Moser, Mr. Hopper, Plaintiff, and Mr. Wood; weighed the evidence it was provided; and drew inferences upon that evidence. *See id.* Accordingly, Plaintiff’s argument—that the Full Commission failed to consider all of the record evidence

when determining its findings of fact nos. 35 through 40—is overruled. *See Smith*, 146 N.C. App. at 280, 552 S.E.2d at 684 (“If there is any competent evidence to support the Commission’s findings of fact, those findings are deemed conclusive on appeal even if there is evidence supporting contrary findings.”).

### **B. Injury by Accident**

Plaintiff next contends that the disciplinary meeting was an “accident” as defined by the Act. He also contends that the facts of the case *sub judice* are distinguishable from *Pitillo v. N.C. Dep’t of Env’t Health & Nat. Res.*, 151 N.C. App. 641, 566 S.E.2d 807 (2002) and *Knight v. Abbott Laboratories*, 160 N.C. App. 542, 586 S.E.2d 544 (2003). We disagree.

This Court has addressed several times whether an employee’s injury related to a meeting with their supervisor should be deemed to have resulted from an accident for purposes of the Act. For example, in *Pitillo v. N.C. Dep’t of Env’t Health and Nat. Res.*, the plaintiff, a waste management specialist, underwent an annual performance review during which she “received ratings of ‘outstanding’ or ‘very good’ in twelve areas, and a rating of ‘good’ in two areas, for an overall rating of ‘very good plus.’” 151 N.C. App. at 643, 566 S.E.2d at 809. The plaintiff was upset that her co-workers had rated her as merely “good” in two areas, so she requested a meeting with the deputy director and a personnel officer to discuss her dissatisfaction. *Id.* The plaintiff’s supervisor and employee relations manager attended the two-hour meeting. *Id.* at 643, 566 S.E.2d at 810. The next day, the plaintiff sought treatment

for “stress-induced anxiety” and a “diagnosed nervous breakdown.” *Id.* She subsequently filed a workers’ compensation claim, alleging that her mental injury arose from either an “injury by accident” or an occupational disease. *Id.* at 644, 566 S.E.2d at 810. The Commission denied her claim, and we affirmed that the events were not “unexpected or extraordinary.” *Id.* at 646, 566 S.E.2d at 811.

In so ruling, we emphasized that the meeting itself was no “different from other meetings to discuss performance evaluations” and thus did not constitute an “injury by accident” under the Act. *Id.* Recognizing that “a mental or psychological illness may be a compensable injury if it has occurred as a result of an accident,” we nevertheless concluded that “an injury is not a compensable ‘injury by accident’ if the relevant events were ‘neither unexpected nor extraordinary,’ and it was only the ‘[claimants]’ emotional response to the events that was the precipitating factor.” *Id.* at 645, 566 S.E.2d at 811 (brackets in original) (quoting *Cody v. Snider Lumber Co.*, 328 N.C. 67, 71, 399 S.E.2d 104, 106 (1991)).

Then, in *Knight v. Abbott Laboratories*, the plaintiff, a laboratory employee, requested a vacation day but was denied by her supervisor. 160 N.C. App. at 544, 586 S.E.2d at 545. The plaintiff later learned that a co-worker had been granted the same vacation day, and upon confronting her supervisor about the denial, he “rose from his desk, and began talking to plaintiff in a loud, angry voice waving his hands and fingers in plaintiff’s face.” *Id.* During the encounter, both parties raised their voices, causing the plaintiff to leave crying. *Id.* Afterward, the plaintiff broke out in



hives, sought medical attention, and was diagnosed with Post Traumatic Stress Disorder and recurrent major depression—conditions that her psychologist believed were substantially aggravated by the confrontation. *Id.* at 544, 586 S.E.2d at 546. The plaintiff filed a workers’ compensation claim, but the Commission denied benefits, concluding that her injury had not occurred by accident. *Id.* at 545, 586 S.E.2d at 546. Citing *Pitillo*, we affirmed the Commission’s denial that the plaintiff suffered no accident. *Id.*

Likewise, in *Cohen v. Franklin Cnty. Sch./N.C. Dep’t of Pub. Instruction*, the plaintiff, a math teacher, was required to participate in periodic observations and maintain a Professional Development Plan (“PDP”). 259 N.C. App. 14–16, 814 S.E.2d 610–12 (2018). After receiving complaints about plaintiff’s teaching, the principal prepared a “principal directed” PDP and met with the plaintiff to discuss it, which was attended by a second administrator. *Id.* at 15, 814 S.E.2d at 611. But the plaintiff refused to sign the PDP and later reported “horrible head pain,” ultimately being diagnosed with a stroke. *Id.* at 16, 814 S.E.2d at 612. She sought workers’ compensation benefits, but the Commission concluded that the meeting was “an ordinary incident of employment,” not an “injury by accident.” *Id.* Affirming that decision, we compared the facts to *Pitillo* and *Knight*, holding that neither the attendance of a second administrator nor the negative feedback about job performance rendered the meeting so unusual or unexpected as to constitute an accident. *Id.* at 24–27, 814 S.E.2d at 613–18.

Here, the record shows that a workplace conflict arose on 3 August 2018 involving Ms. Rowe, who reported the incident to HR. Multiple witnesses stated Ms. Rowe believed Plaintiff's behavior or language exceeded acceptable boundaries, prompting HR to investigate and schedule the disciplinary meeting. But an investigation alone—even if stressful—is not an “accident” unless it deviates from ordinary workplace processes. *See Smith v. Hous. Auth. Of Asheville*, 159 N.C. App. 198, 203, 582 S.E.2d 692, 696 (2003); *see also Pitillo*, 151 N.C. App. at 646, 566 S.E.2d at 812 (holding that a plaintiff's mental illness was not caused by an “accident” where the plaintiff required psychiatric treatment after a performance review). That is, the investigation into employee misconduct cannot be considered an “accident” as it is not “an unlooked for and untoward event” involving “the interruption of the routine of work and the introduction thereby of unusual conditions likely to result in unexpected consequences.” *Chase*, 259 N.C. App. 250, 812 S.E.2d 406; N.C. Gen. Stat. § 97–2(6).

This standard protocol—calling an employee into HR for possible discipline—is not an unexpected interruption of work akin to an unanticipated “accident.” *See Cohen*, 259 N.C. App. at 26, 814 S.E.2d at 618 (“At most, Cohen received critical feedback that was unwelcome to her—an occurrence that is not unusual for an employee at any job.”). Indeed, while Plaintiff has never faced discipline before, the Commission noted that employees at Defendant's facility commonly receive disciplinary write-ups if they violate work rules; undercutting Plaintiff's assertion that the meeting was “extraordinary.” *See Pitillo*, 151 N.C. App. at 645, 566 S.E.2d

at 811 (holding that an accident “must involve more than a mere injury—it must be caused by a separate, unexpected event” that interrupts the work routine).

Moreover, the Full Commission’s unchallenged findings of fact adequately support its conclusion of law—that Plaintiff did not suffer an “accident” within the meaning of the Act—in that: (1) “Defendant has a policy regarding bullying, harassment, and threatening interactions with coworkers, which is prominently displayed on computers and the shop floor and provides that such conduct is a ‘non-tolerable’ offense”; (2) Defendant’s policy states that “[e]mployees who feel they have been subject to or have observed discrimination and/or harassment must report such conduct immediately . . . so that an investigation can be initiated and appropriate action can be taken”; (3) “It is Defendant’s policy that employees are not forewarned of disciplinary events”; (4) an employee facing a disciplinary event is entitled to notice, which Plaintiff received; (5) Plaintiff was provided with a union representative for the meeting; (6) Mr. Moser conducted the HR meeting with a “direct” tone of voice as opposed to an abusive or angry one; (7) “Mr. Hopper confirmed that Mr. Moser provided Plaintiff with an opportunity to tell his side of the story”; (8) Plaintiff knew that Ms. Rowe was upset about the events at the tour huddle meeting given that Mr. Davis “recommended . . . that he apologize” to her; (9) “Plaintiff refused [to apologize] because ‘he felt like he had done nothing wrong’”; (10) Ms. Rowe was “visibly upset” during the tour huddle meeting and Plaintiff was “ranting”; (11) Dr. Wysong opined that Plaintiffs injuries precipitated as a result of “stress and insomnia . . . [which] all

started in August when he was given a ‘final written warning’ at work”; and (12) Dr. Xiao similarly opined that “Plaintiff’s anxiety and depression was caused by the August 8, 2018 HR meeting with Mr. Moser.” These unchallenged findings adequately underpin the conclusion that the disciplinary meeting was neither unexpected nor extraordinary, and thus, not a compensable injury by accident. *See id.* (citation omitted) (providing that “an injury is not a compensable ‘injury by accident’ if the relevant events were ‘neither unexpected nor extraordinary,’ and it was only the ‘[claimants]’ emotional response to the [events that] was the precipitating factor.”).

Since the investigation is not an “accident,” we hold that the Full Commission properly determined plaintiff’s injury is not compensable under the Act. *See Smith*, 159 N.C. App. at 203, 582 S.E.2d at 696 (citation omitted) (“Since the investigation is not an ‘accident,’ and the Commission found the investigation caused plaintiff’s mental injury, we find the Commission properly determined plaintiff’s injury is not compensable under the Workers’ Compensation Act.”); *see also Cohen*, 259 N.C. App. at 26, 814 S.E.2d at 617 (“There was nothing remarkable about Harris providing negative feedback to Cohen after having observed her class or requiring her to take action to correct deficiencies in her job performance.”). Plaintiff’s subjective shock or disappointment does not convert a personnel meeting into an “accident” when the meeting followed the same structure used for any employee facing possible discipline. *See Gray v. RDU Airport Auth.*, 203 N.C. App. 521, 530, 692 S.E.2d 170, 177 (2010)

(rejecting plaintiff's contention that the "accidental character" of an injury is to be assessed from the subjective perspective of the employee). Since the Full Commission correctly concluded that Plaintiff did not sustain an injury by accident, we need not address Plaintiff's remaining issues. *See Smith*, 146 N.C. App. at 280, 552 S.E.2d at 684 (holding that claimant must prove all three elements of a workers' compensation claim).

#### **IV. Conclusion**

For the above reasons, we hold that the Full Commission's findings of fact are supported by competent evidence; those findings adequately support the Full Commission's conclusion of law—that Plaintiff did not sustain a compensable injury by accident under the Act. Having found no "accident" as defined by N.C. Gen. Stat. § 97-2(6), we need not address Plaintiff's remaining arguments. Accordingly, the Full Commission properly denied Plaintiff's workers' compensation claim.

AFFIRMED.

Judges HAMPSON and WOOD concur.

Report per Rule 30(e).