

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

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B.C., Appellant )

and )

DEPARTMENT OF JUSTICE, FEDERAL )  
CORRECTIONAL INSTITUTION, )  
Greenville, IL, Employer )

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**Docket No. 09-937**  
**Issued: October 23, 2009**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On February 25, 2009 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decisions dated April 23, 2008 and January 22, 2009 finding that he had not established an injury due to his federal employment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met his burden of proof in establishing that he sustained a right hand injury in the performance of duty.

**FACTUAL HISTORY**

On January 5, 2008 appellant, then a 33-year-old correctional officer, filed an occupational disease claim alleging that he developed a staphylococcus aureus infection due to factors of his federal employment. He stated, "As a duty of my employment, I am responsible

for searches of federal inmates and their rooms. I believe that due to the inmates with staphylococcus infection that I contacted this disease from my work environment.”

In a January 5, 2008 narrative statement, appellant noted that on December 27, 2007 he reopened an existing wound which started to bleed. On December 28, 2007 his hand appeared swollen; he sought treatment at the employing establishment clinic and the local emergency room. Appellant’s attending physician examined him on January 2, 2008, diagnosed a staphylococcus infection and directed him to complete his antibiotic course.

The employing establishment safety manager stated the appellant had an existing injury to his hand which occurred at work on December 27, 2007 when he hit it on a locker causing it to bleed. Appellant received medical treatment for this injury on December 28, 2007 at the employing establishment clinic and was diagnosed with a small reddened area to the right hand which was open and draining yellowish fluid. He sought treatment at the local emergency room on December 28, 2007 and underwent a wound and fluid culture on his right hand which was positive for staphylococcus aureus. Dr. Jerome J. Eppin, a Board-certified family practitioner, completed a note on January 2, 2008 relating that appellant had injured his right hand at work and that upon return to work he noticed his right hand was swelling and that the wound was draining. He reviewed the culture and diagnosed a skin infection. Dr. Eppin recommended that appellant complete his prescribed course of antibiotics. In a statement dated January 4, 2007, a coworker noted that on December 28, 2007 appellant reported that he had a small sore on the top of his right hand which he believed to be the staphylococcus infection.

In a letter dated February 14, 2008, the Office requested additional factual and medical information from appellant and allowed him 30 days for a response. Appellant responded on February 23, 2008 and stated that he was exposed to inmates with infections, but that the medical records were not available to him. In a memorandum dated March 10, 2008 appellant’s supervisor, David Hutchcraft, stated that appellant was responsible for working around inmates during this tour of duty, but that he had no knowledge of any specific inmate with a staphylococcus infection.

By decision dated April 23, 2008, the Office denied appellant’s claim finding that exposure alone was not sufficient to establish a work-related medical condition.

Appellant requested reconsideration on October 28, 2008 and stated that he injured his hand on December 27, 2007. He alleged that he searched the wet and dirty laundry of an inmate, that he wore his latex gloves into his office, moved a box and cut open the top of his right hand through his glove on a locker handle. Appellant washed his hand and applied a bandage. He developed pain and swelling in his hand a few days later and was diagnosed with an infection.

By decision dated January 22, 2009, the Office denied modification of its prior decision finding that the medical evidence was not sufficiently detailed to establish a causal relationship between appellant’s employment and his diagnosed infection.

## LEGAL PRECEDENT

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury. Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>1</sup>

## ANALYSIS

Appellant alleged on December 27, 2007 after conducting a search of an inmate’s wet and dirty laundry he struck the back of his right hand on a locker handle cutting his hand through his latex glove. He further asserted that he developed a staphylococcus infection in this wound. It is well established that a claim for compensation need not be filed on any particular form. A claim may be made by filing any paper containing words which reasonably may be construed or accepted as a claim.<sup>2</sup> Although appellant filed a claim for an occupational disease, the Office should have developed his claim as a traumatic injury.

The employing establishment supported that appellant sustained a cut on the back of his right hand. Although causal relationship generally requires a rationalized medical opinion, a claim may be accepted without a medical report in clear-cut traumatic injury claims when one or more of the following criteria, as set forth in the Office’s procedure manual, are satisfied:

“(1) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burns, lacerations insect stings, or animal bites);

“(2) The injury was witnessed or reported promptly and no dispute exists as to the fact of injury; and

“(3) No time was lost from work due to disability.<sup>3</sup>”

In the present case, the injury reported, a cut on the back of the hand, is the type of condition that can be readily identified on visual inspection by a lay person. This is supported by the employing establishment clinic notes and the emergency room records. Moreover, there is no dispute that the injury was promptly reported to appellant’s supervisor. No dispute exists as to fact of injury. Therefore, the Board finds that the record establishes that appellant sustained an injury while in the performance of duty on December 27, 2007.

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<sup>1</sup> *Steven S. Saleh*, 55 ECAB 169, 171-72 (2003).

<sup>2</sup> *D.D.*, 57 ECAB 734, 738 (2006).

<sup>3</sup> *M.A.*, 60 ECAB \_\_\_\_ (Docket No. 08-2510, issued July 16, 2009); *Timothy D. Douglas*, 49 ECAB 558, 559-60 (1988).

Because the Office made no finding as to whether appellant was disabled and, if so, the extent and nature of such disability, the case will be remanded for further development. It should make appropriate findings as to his entitlement to medical expenses and whether he missed time from work due to his injury. After such further development as the Office considers necessary, it shall issue an appropriate decision on appellant's entitlement to benefits under the Federal Employees' Compensation Act.

**CONCLUSION**

The Board finds that appellant has met his burden of proof in establishing that he sustained a laceration to the back of his right hand in the performance of duty on December 27, 2008.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated January 22, 2009 and April 23, 2008 are reversed and remanded for additional development with this decision of the Board.

Issued: October 23, 2009  
Washington, DC

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

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board