United States Department of Labor
Employees' Compensation Appeals Board

C.B., Appellant	)	
and	)	**Docket No. 12-606**
	)	**Issued: August 3, 2012**
U.S. POSTAL SERVICE, POST OFFICE, Philadelphia, PA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 18, 2012 appellant filed a timely appeal of a December 21, 2011 Office of Workers' Compensation Programs' (OWCP) merit decision denying his traumatic injury claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he tore a tendon in his right hand in the performance of duty on October 31, 2011.

FACTUAL HISTORY

On November 4, 2011 appellant, then a 51-year-old letter carrier, filed a traumatic injury claim alleging that he tore a tendon in his right hand on October 31, 2011. He stated that his right hand started hurting about noon and during the course of his workday his hand began to swell. In his undated narrative statement, appellant explained that he was performing his normal

[1] 5 U.S.C. § 8101 *et seq.*

work function when he began to experience right hand pain which increased during the day. He stated that while delivering his route he noticed that his hand was swollen. After completing his route appellant advised his manager of his injury and sought medical treatment the next day.

On November 1, 2011 appellant sought treatment for swelling and pain in his hand. He submitted a note dated November 4, 2011 from Dr. David Bozentka, a Board-certified orthopedic surgeon of professorial rank, stating that he could perform limited duty with his left hand only.

OWCP requested that appellant provide additional factual and medical evidence in a letter dated November 21, 2011. Dr. Bozentka completed a note dated November 7, 2011 and stated that appellant had tenosynovitis related to the repetitive activities required in his employment. Appellant completed a second statement on November 29, 2011 and repeated his recollection of the events of October 31, 2011. He specified that the pain in his right hand began between his right index and middle fingers while performing his daily routine as a carrier. Appellant noted that the pain was mild around 1:45 p.m. and increased over the next hour and a half. He also developed swelling on the back of his hand. Appellant stated that he informed his manager. He reported for work on November 1, 2011, cased his route and asked to go to his doctor.

By decision dated December 21, 2011, OWCP denied appellant's claim finding that he had not established that the events occurred as alleged. It stated that appellant did not provide sufficient detail regarding the exact cause of his condition.

LEGAL PRECEDENT

OWCP defines a traumatic injury as "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."[2] In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[3] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

With respect to the first component of fact of injury, the employee has the burden of establishing the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, but the employee's statements must be consistent with the surrounding

[2] 20 C.F.R. § 10.5(ee).

[3] *Elaine Pendleton*, 40 ECAB 1143 (1989).

facts and circumstances and his subsequent course of action. An employee has not met his burden of proof of establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on an employee's statements in determining whether a *prima facie* case has been established. However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.[4]

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.[5] Medical rationale includes a physician's rationalized opinion on the issue of whether these is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment activity or factors identified by the claimant.[6]

ANALYSIS

The Board finds that appellant has submitted sufficient factual information to establish that an employment incident occurred on October 31, 2011 as alleged. Appellant stated that on that date as he was performing his regular carrier duties he experience pain and swelling in his right hand beginning at 1:45 p.m. He stated that as he continued to work delivering his route the pain and swelling in his right hand increased. Appellant reported his condition to his supervisor and sought medical attention on November 1, 2011. His statements are consistent with his subsequent course of action. Appellant promptly provided notification of injury, reported his injury to his supervisor, stopped work following the alleged injury and obtained medical treatment.

The Board further finds, however, that appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between his work activities and his diagnosed condition. The mere manifestation of a condition during a period of employment does not raise an inference that there is a causal relationship between the condition and the employment. Neither the fact that the condition became apparent during a period of employment nor the belief that the employment caused or aggravated a condition is sufficient to establish causal relationship.[7]

On November 1, 2011 appellant sought treatment for swelling and pain in his hand. The only medical evidence in the record addressing the relationship between appellant's condition

[4] *D.B.*, 58 ECAB 464, 466-67 (2007).

[5] *T.F.*, 58 ECAB 128 (2006).

[6] *A.D.*, 58 ECAB 149 (2006).

[7] *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

and his employment is Dr. Bozentka's November 7, 2011 note which stated that appellant had tenosynovitis related to the repetitive activities required in his employment. This report is insufficient to meet appellant's burden of proof as Dr. Bozentka did not identify appellant's employment activities on October 31, 2011 and did not explain why the normal duties appellant performed on that date would result in the diagnosed condition. Instead, Dr. Bozentka's November 7, 2011 note suggests that appellant's condition may have resulted from repetitive activities over the course of more than one work shift, or an occupational disease claim rather than a claim for a traumatic injury. Without further detail and medical reasoning, this report is not sufficient to meet appellant's burden of proof.

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 submitted a clear statement attributing his right hand condition to his regular employment duties on October 31, 2011. However, the Board further finds that appellant has not submitted sufficiently detailed medical opinion evidence to establish that he sustained a traumatic injury as a result of the employment events on October 31, 2011.

ORDER

IT IS HEREBY ORDERED THAT the December 21, 2011 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: August 3, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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