

In an undated statement, appellant alleged that, on September 5, 2007, toward the end of the day, she noticed a bump on her left leg. She returned to work the next day but noticed that the bump had increased in size and color. Appellant notified her supervisor but told him that she would continue her route. She subsequently returned and requested immediate medical attention.

In a May 30, 2008 letter, the employing establishment controverted appellant's entitlement to continuation of pay because she filed the claim over 30 days after the incident. It submitted a statement from appellant's supervisor, who stated that he was approached by appellant around September 2007 claiming something bit her. Appellant's supervisor asked her if she wanted medical treatment, which she denied, and provided her with an occupational disease claim form (CA-2).

By letter dated June 11, 2008, the Office requested that appellant provide additional information, including why she did not file a claim within 30 days of the injury. Appellant did not provide the factual evidence addressing the issue.

By decision dated July 8, 2008, the Office accepted appellant's claim for an insect bite, nonvenomous and without infection. In a second decision of the same date, it denied continuation of pay on the grounds that appellant did not report her injury on an Office-approved form within 30 days following the injury.²

LEGAL PRECEDENT

Section 8118³ of the Federal Employees' Compensation Act⁴ provides for payment of continuation of pay, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to traumatic injury with her immediate supervisor on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title. Section 8122(a)(2)⁵ provides that written notice of injury must be given as specified in section 8119. The latter section provides in part that notice of injury shall be given in writing within 30 days after the injury.⁶

Claims that are timely under section 8122 are not necessarily timely under section 8118(a). Section 8118(a) makes continuation of pay contingent on the filing of a written claim within 30 days of the injury.⁷ When an injured employee makes no written claim for a period of

² The Board notes that the Office accepted appellant's claim, entitling her to medical benefits and potential wage-loss compensation.

³ 5 U.S.C. § 8118.

⁴ *Id.* at §§ 8101-8193.

⁵ *Id.* at § 8122(a)(2).

⁶ *Id.* at § 8119(a), (c). *See also Gwen Cohen-Wise*, 54 ECAB 732 (2003).

⁷ *Id.* at § 8119(a).

wage loss within 30 days, she is not entitled to continuation of pay, notwithstanding prompt notice of injury.⁸

The Act's implementing regulations provide, in pertinent part, that to be eligible for continuation of pay, a claimant must: (1) have a traumatic injury which is job related and the cause of the disability, and/or the cause of lost time due to the need for medical examination and treatment; (2) file Form CA-1 within 30 days of the date of the injury; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁹

ANALYSIS

On May 27, 2008 appellant filed a traumatic injury claim (Form CA-1) for a September 5, 2007 injury. Because the claim was not filed within 30 days of the injury, as specified in the Act, the Board finds that she is not entitled to continuation of pay.

The Board notes that appellant provided oral notice to her supervisor on September 6, 2007, the day after the injury. However, the Board finds that this notice is not sufficient to entitle appellant to continuation of pay, as section 8118(a) requires the filing of a written claim within 30 days.¹⁰

The Board finds that appellant is not entitled to continuation of pay as she failed to file her claim within 30 days of the September 5, 2007 injury.

CONCLUSION

The Board finds that appellant is not entitled to continuation of pay.

⁸ *Laura L. Harrison*, 52 ECAB 515 (2001).

⁹ 20 C.F.R. § 10.205(a)(1-3). *See also Carol A. Lyles*, 57 ECAB 265 (2005).

¹⁰ *See Russell P. Chambers*, 32 ECAB 550 (1981); 5 U.S.C. § 8118(a).

ORDER

IT IS HEREBY ORDERED THAT the July 8, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 18, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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