



hand while lifting a bag in the performance of duty. The employing establishment noted that he did not lose time from work; however, medical expenses were expected.

By letter dated June 16, 2010, OWCP advised appellant that additional factual and medical evidence was needed. Appellant was requested to describe in detail how the injury occurred and to provide dates of examination and treatment, a history of injury given by him to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed and a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury. OWCP explained that a physician's opinion was crucial to his claim and allotted 30 days within which to submit the requested information. No response or additional evidence was received.

By decision dated July 30, 2010, OWCP denied appellant's claim on the grounds that he did not establish an injury as alleged. It found that the evidence was insufficient to show that the claimed event occurred as alleged because appellant did not provide a detailed factual statement explaining the events that took place. Additionally, no medical evidence was provided.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA<sup>3</sup> and that an injury was sustained in the performance of duty.<sup>4</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>6</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

### **ANALYSIS**

Appellant alleged that he injured his right hand while lifting a bag at work. Although OWCP found insufficient evidence to establish that the incident occurred as alleged, there is no

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *James E. Chadden Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *Id.*

dispute that appellant lifted baggage at work on June 8, 2010. The employing establishment did not dispute the fact that appellant lifted a bag at work on June 8, 2010 but advised that there was no lost time from work. The Board finds that the first component of fact of injury, the claimed incident, lifting baggage, occurred as alleged.

However, the medical evidence is insufficient to establish that the employment incident caused an injury. There is no medical evidence of record. Appellant did not submit any medical reports to address how the June 8, 2010 lifting incident caused or aggravated a right hand injury. Thus, he has not established a *prima facie* claim.<sup>8</sup> There is no medical evidence from a physician addressing how lifting a bag on June 8, 2010, caused or aggravated a diagnosed right hand injury. Consequently, appellant has not met his burden of proof to establish his claim.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the July 30, 2010 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: July 7, 2011  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>8</sup> See *Donald W. Wenzel*, 56 ECAB 390 (2005).