

he was walking and delivering mail and noticed that his ankle was swollen. He did not stop work and notified his supervisor about a year later, on October 19, 2010.

By letter dated October 28, 2010, OWCP informed appellant that no evidence had been received in support of his claim. It requested additional factual and medical evidence and asked that he respond to the provided questions within 30 days.

By decision dated December 2, 2010, OWCP denied appellant's claim finding that the evidence did not establish that the incident occurred as alleged. It specifically noted that he did not submit any evidence in support of his claim.²

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 filed within the applicable time limitation period of FECA⁴ and that an injury was sustained in the performance of duty.⁵ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

When an employee claims that he or she sustained an injury in the performance of duty there must be sufficient evidence to establish that the employee experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.⁷ Once an employee establishes an injury in the performance of duty, the employee has the burden of proof to establish that any subsequent medical condition or claim of disability is causally related to the accepted injury.⁸

² The Board notes that appellant submitted additional evidence after OWCP rendered its December 2, 2010 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 510.2(c)(1); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to OWCP, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *Delores C. Ellyet*, 41 ECAB 992 (1990).

⁷ See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. § 10.5(q) and (ee) (1999) (occupational disease or illness and traumatic injury defined). See *Victor J. Woodhams*, 41 ECAB 345 (1989) regarding a claimant's burden of proof in an occupational disease claim.

⁸ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

ANALYSIS

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on September 22, 2009.

Appellant must establish all of the elements of his claim for his injury to be compensable. He must prove his employment, the time, place and manner of injury, a resulting personal injury and that his injury arose in the performance of duty. The evidence received prior to the December 2, 2010 decision does not provide any details regarding appellant's injury. Appellant submitted a claim form which briefly recounted that his right ankle was swollen when he was delivering mail on his route. By letter dated October 28, 2010, OWCP informed him of the detailed medical and factual evidence needed to support his claim. It listed a series of questions for appellant's response; but the record before the Board contains no additional evidence.

Appellant has not provided any detail to establish that the incident occurred in the manner alleged. He failed to adequately describe the circumstances of his injury and failed to present evidence regarding the specific mechanism of injury, as required in a claim for traumatic injury.⁹ No statements were submitted and appellant did not provide OWCP with additional factual evidence, as requested. He did not submit any medical evidence in support of his claim prior to the December 2, 2010 decision. Further, appellant's decision to delay filing his claim for over a year after his traumatic incident significantly hampers the ability of OWCP to investigate the factual, and especially the medical circumstances of his claim. As he failed to provide evidence to establish that the incident occurred at the time, place and in the manner alleged, his claim was properly denied.

Evidence submitted by appellant after the final decision cannot be considered by the Board. As previously noted, the Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its decision.¹⁰ Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a right ankle injury in the performance of duty on September 22, 2009.

⁹ *Paul Foster*, 56 ECAB 1943 (2004).

¹⁰ 20 C.F.R. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated December 2, 2010 is affirmed.

Issued: February 24, 2012
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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