

defensive tactics training and acting as an aggression during a drill when I received a knee strike to my right rib cage.” He described his injury as either a bruise or a potential cracked rib. Appellant did not stop work.

OWCP informed appellant that additional evidence was required. It advised him that his attending physician must provide a firm diagnosis and an opinion supported by a medical explanation as to how the reported work incident caused or aggravated medical condition. OWCP notified appellant that this evidence was crucial to the consideration of his claim.

Dr. Denise Harr, a family physician, saw appellant on April 20, 2011. She described what happened and related his complaints. Appellant “just wants to know if anything is broken.” Dr. Harr examined him and found that his chest was tender to touch over the anterior mid-lower rib area on the right. There was no palpable abnormality, no bruising and no skin changes. Dr. Harr diagnosed acute chest wall trauma and chest pain made worse by breathing. A radiology report that same date found no evidence of any displaced rib fracture.

On June 6, 2011 OWCP denied appellant’s injury claim. It accepted that the April 14, 2011 incident occurred as alleged but that the medical evidence offered no firm medical diagnosis to connect with that incident. As Dr. Harr did not diagnose a specific medical condition, such as contusion or bruise, appellant failed to establish the element of fact of injury.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.³

A traumatic injury is defined by OWCP regulations 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.⁴

A person who claims benefits for a work-related condition has the burden of establishing by the weight of the medical evidence a firm diagnosis of the condition claimed and a causal relationship between that condition and factors of federal employment. Pain is generally considered a symptom, not a firm medical diagnosis.⁵

² 5 U.S.C. § 8102(a).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ 20 C.F.R. § 10.5(ee).

⁵ *J.W.*, Docket No. 11-1475 (issued December 7, 2011).

ANALYSIS

OWCP accepts that appellant received a knee strike to his right rib cage while in the performance of duty on April 14, 2011. Appellant established that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question becomes whether this incident caused an injury.

The medical evidence offers no specific diagnosis of an injury. Dr. Harr, the treating physician, diagnosed trauma and pain, but trauma is a general term that does not identify a particular medical condition and pain is generally a symptom of an unidentified medical condition. In the case of *D.I.*,⁶ the employee alleged a low back injury when his postal vehicle struck a curb. Dr. Harr reported that appellant was treated on an emergency basis for back pain. He would later diagnose chronic back pain. OWCP denied the claim on the grounds that the evidence offered no firm medical diagnosis of a condition that could be attributed to the incident at work. The Board affirmed, noting that pain as a symptom, not a firm medical diagnosis.

The medical evidence in this case rules out bruising, skin changes and displaced rib fracture. It remains unknown what medical condition caused the reported tenderness to touch or pain made worse by breathing. A firm diagnosis of the injury is necessary not only to support the element of fact of injury, it will allow OWCP to accept a specific medical condition and authorize appropriate medical treatment.

Because the medical evidence fails to diagnose a specific medical condition, appellant has not met his burden to establish that he sustained an injury on April 14, 2011, as alleged. The Board, therefore, will affirm OWCP's June 6, 2011 decision denying his injury claim.

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 has not met his burden of proof to establish that he sustained an injury in the performance of duty on April 14, 2011, as alleged.

⁶ Docket No. 11-317 (issued December 12, 2011).

ORDER

IT IS HEREBY ORDERED THAT the June 6, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 10, 2012
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