

glass wall. He explained that he needed surgery in two finger joints. Appellant did not stop work.

On April 25, 2011 OWCP advised appellant that his claim was initially accepted as a minor injury but it was reopened for consideration because he requested authorization for surgery. It noted that he did not submit any evidence with his claim and requested additional evidence to demonstrate that he sustained a left hand injury as a result of the alleged employment incident.

In a February 22, 2011 report, Kimberly Brabentz, a physician's assistant, related appellant's complaints of left hand pain that radiated to his third finger and of weakness, swelling and bruising. Appellant reported that the initial onset of discomfort began one to two hours ago and that nothing aggravated the pain. He also stated that about two months ago it was difficult to use his hand because of a mass on his tendon. Ms. Brabentz reviewed appellant's history and conducted an examination. She noted that he was positive for left upper extremity pain, particularly to palpation over his palm at the nodule and index finger and that he had decreased range of motion in the index finger.

In a February 22, 2011 x-ray report, Dr. Steven Abrams, a Board-certified diagnostic radiologist, noted left hand pain from an injury. The x-ray examination revealed no displaced fracture, dislocation, subluxation or degenerative changes. Appellant's joint spaces were well preserved and his alignment was intact. Dr. Abrams concluded that his examination was normal.

In a March 31, 2011 report, Dr. Sebastian B. Ruggeri, a Board-certified orthopedic surgeon, noted appellant's complaints of left hand pain and related his history of having a growth for the past six to nine months. He denied any history of injury or treatment. Upon examination of his right and left wrists, Dr. Ruggeri observed a mass over the left hand ring finger measuring one times two centimeters and motion to the index finger joint from -30 to 70 degrees. Neurovascular tone was good and no dystrophic changes or paresthesia was noted at the carpal tunnel, cubital tunnel, sublimis arcade or Guyon's canal. Dr. Ruggeri diagnosed left ring finger palmar mass and left index and long fingers capsulitis.

In a May 11, 2011 report, Dr. Marianne Cloeren, a Board-certified internist, noted appellant's complaints of a left hand injury and related that on February 22, 2011 he struck his hand on a glass partition at work. She reported that the documentation from his February 22, 2011 doctor's visit did not support an acute injury but described development of worse pain in his left hand without any inciting event. Dr. Cloeren also pointed out that the x-ray examination did not reveal an acute injury and explained that orthopedic evaluation over two months documented that there was no injury event. She noted appellant's diagnoses of left hand capsulitis and mass and concluded that his left hand condition was related to a preexisting personal condition.

In an undated statement, appellant explained that on his way to a deposition at a law firm he walked into a glass wall between the lobby and the deposition conference room and injured the middle and index fingers of his left hand. He thought he just bruised or sprained his hand, but a hand surgeon recommended surgery to remove the scar tissue that had formed lesions. Appellant further stated that he had no similar disabilities or symptoms before the injury except

for an unrelated growth on the palm of his left hand. He also submitted two witness statements from Sally C. Shanely, a supervisory trial attorney, and David Lee, a court reporter, indicating that appellant accidentally walked into a glass wall when attempting to enter the deposition conference room and received medical attention.

In a decision dated May 25, 2011, OWCP accepted that the February 22, 2011 employment incident occurred as alleged, but denied appellant's claim finding insufficient medical evidence to establish that he sustained a left hand condition causally related to the accepted employment incident.

On July 13, 2011 appellant submitted a request for reconsideration. He related that on February 22, 2011 he injured his left hand when he walked into a glass wall while trying to enter the deposition conference room. Appellant was examined at Arrowhead Family Health Center within two hours after the incident. On March 31, 2011 he was examined by Dr. Ruggeri. He explained that he also visited Dr. Ruggeri for an unrelated growth on his hand and noted that Dr. Ruggeri provided a medical opinion of causal relationship between his hand injury and the February 22, 2011 employment incident.

In a July 1, 2011 report, Dr. Ruggeri stated that he had treated appellant since March 31, 2011 for capsulitis of the left index and long finger with a contracture and mass at the left ring finger. He reported that appellant's capsulitis was consistent with the injury that he sustained on February 22, 2011.

By decision dated October 14, 2011, OWCP denied modification of the May 25, 2011 decision denying appellant's traumatic injury claim. It stated that because appellant submitted new medical evidence he was entitled to a merit review of his claim, but determined that Dr. Ruggeri's July 1, 2011 report still failed to establish that his left hand condition was causally related to the February 22, 2011 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative, and substantial evidence³ including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether "fact of injury" has been established.⁵

² 5 U.S.C. §§ 8101-8193.

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

There are two components involved in establishing the fact of injury. 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.⁶ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁷ An employee may establish that the employment incident occurred as alleged but fail to show that his or her disability or condition relates to the employment incident.⁸

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence providing a diagnosis or opinion as to causal relationship.⁹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the specified employment factors or incident.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 the specific employment factors identified by the employee.¹¹ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹²

ANALYSIS

OWCP accepted that on February 22, 2011 appellant accidentally walked into a glass wall while trying to enter a deposition conference room but found that the medical evidence failed to demonstrate that his left hand condition was causally related to the accepted incident. The Board finds that appellant did not meet his burden of proof to establish that he sustained a left hand condition as a result of the February 22, 2011 employment incident.

Appellant submitted several medical reports by Dr. Ruggeri. In a March 31, 2011 report, Dr. Ruggeri noted appellant's complaints of left hand pain and of a growth for the past six to nine months. Upon examination, he observed a mass over his left hand ring finger and decreased range of motion. Dr. Ruggeri diagnosed left ring finger palmar mass and capsulitis of the left index and long fingers. In a July 1, 2011 report, he concluded that appellant's capsulitis was consistent with the injury sustained on February 22, 2011. Although Dr. Ruggeri provides an opinion regarding the cause of appellant's left hand condition, he fails to provide any medical

⁶ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁷ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

⁹ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ *D.S.*, Docket No. 09-860 (issued November 2, 2009); *B.B.*, 59 ECAB 234 (2007).

¹² *James Mack*, 43 ECAB 321 (1991).

rationale explaining how walking into a glass wall caused his left hand condition. Sufficient medical explanation is particularly necessary in this case since the record also indicates that appellant experienced a growth on his left hand for six to nine months prior to the February 22, 2011 incident. Moreover, in a May 11, 2011 report, Dr. Cloeren attributed appellant's left hand condition to a preexisting personal condition, and not an acute injury. Dr. Ruggeri did not explain why appellant's left hand condition was causally related to the February 22, 2011 incident, and not a preexisting growth on his left hand as Dr. Cloeren indicated. Because a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale, the Board finds that Dr. Ruggeri's reports are insufficient to establish appellant's claim.¹³

The additional medical evidence is also insufficient to establish appellant's traumatic injury claim. In a February 22, 2011 x-ray report, Dr. Abrams noted appellant's complaints of a left hand injury but offered no opinion or explanation regarding the cause of his left hand pain. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁴ Likewise, the February 22, 2011 physician's assistant report also fails to establish causal relationship as physician's assistants are not considered "physicians" as defined by FECA and their opinions are of no probative value.¹⁵ Because appellant has not provided probative medical evidence in this case, the Board finds that he did not meet his burden of proof to establish his 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 failed to establish that he sustained a left hand condition as a result of the February 22, 2011 employment incident.

¹³ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *T.M.*, Docket No. 08-975 (issued February 6, 2009); *A.D.*, 58 ECAB 149 (2006).

¹⁴ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, *supra* note 13; *A.D.*, *supra* note 13.

¹⁵ Section 8102(2) provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); *see also Roy L. Humphrey*, 57 ECAB 238 (2005).

ORDER

IT IS HEREBY ORDERED THAT the October 14 and May 25, 2011 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: June 8, 2012
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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