

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**J.O., Appellant**

**and**

**DEPARTMENT OF THE ARMY, FORT SAM  
HOUSTON, TX, Employer**

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**Docket No. 12-267  
Issued: June 11, 2012**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On December 8, 2011 appellant filed a timely appeal from an October 19, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether OWCP properly determined appellant was not entitled to continuation of pay.

**FACTUAL HISTORY**

On April 11, 2011 appellant, then a 63-year-old materials handler, filed a traumatic injury claim (Form CA-1) alleging that on March 28, 2011 when "getting off the bus going down the steps my leg gave out." He described the injuries as left leg, low back and emotional stress. The incident occurred at 6:45 a.m. on March 28, 2011.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

On April 7, 2011 appellant stated that on March 28, 2011 he had arrived at the employing establishment parking lot, parked his car and boarded the shuttle bus. He stated the seats were cramped and uncomfortable and when he got up his left leg felt weak. As appellant was descending the steps, his left leg gave out and began to hurt. According to him, the bus dropped him off in front of the medical center where he works. Appellant also referred to lifting heavy pallets after returning to work on March 30, 2011 and emotional stress as a result of being falsely accused of bringing a gun to work.

Appellant submitted an April 7, 2011 hospital discharge report related to treatment on April 2, 2011 for deep vein thrombosis (DVT). In an attending physician's report (Form CA-20) dated April 12, 2011, Dr. Leo Edwards, an internist, provided a history of swelling in the left leg due to a blood clot. He diagnosed DVT, back strain and emotional stress, checking a box "no" as to whether the conditions were causally related to an employment activity. Dr. Edwards completed a duty status report (Form CA-17) dated April 12, 2011. The description of injury was getting off a bus at front entrance of hospital and the diagnoses "due to injury" were back pain and clot in leg.

By decision dated May 27, 2011, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish an injury causally related to the employment incident.

By decision dated June 30, 2011, OWCP denied appellant's claim for continuation of pay. It found that the claim was not accepted and therefore he was not entitled to continuation of pay.

Appellant requested a review of the written record. By decision dated October 19, 2011, OWCP's hearing representative affirmed the June 30, 2011 decision.<sup>2</sup> The hearing representative found that appellant did not sustain a traumatic injury and therefore was not entitled to continuation of pay.

### **LEGAL PRECEDENT**

OWCP regulations provide, in pertinent part, that to be eligible for continuation of pay, an employee 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 a 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.<sup>3</sup>

### **ANALYSIS**

Appellant filed a traumatic injury claim within 30 days for an injury on March 28, 2011. OWCP has not, however, accepted a traumatic injury. The claim was denied by decision dated May 27, 2011. Since there is no traumatic injury, there is no employment-related disability.

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<sup>2</sup> The record also contains an October 18, 2011 OWCP's hearing representative decision affirming the denial of the traumatic injury claim. That decision is under review by the Board under Docket No. 12-266. The evidence and arguments submitted on appeal relate to the October 18, 2011 decision.

<sup>3</sup> 20 C.F.R. § 10.205(a)

Appellant has not established that he sustained “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” as required by OWCP regulations. In the absence of an employment-related disability caused by a traumatic injury, he is not eligible for continuation of pay. The Board finds OWCP properly determined appellant was not entitled to continuation of pay in this case.

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 OWCP properly found appellant was not entitled to continuation of pay.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers’ Compensation Programs dated October 19 and June 30, 2011 are affirmed.

Issued: June 11, 2012  
Washington, DC

Alec J. Koromilas, Judge  
Employees’ Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees’ Compensation Appeals Board

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