

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

A.K., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Houston, TX, Employer**

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**Docket No. 11-1834
Issued: March 9, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 4, 2011 appellant filed a timely appeal from a July 15, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her traumatic injury claim. Pursuant to the Federal Employees' Compensation Act¹ (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 appellant met her burden of proof to establish that she sustained a bilateral contusion of the buttocks in the performance of duty on May 28, 2011.

FACTUAL HISTORY

On June 3, 2011 appellant, then a 57-year-old carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 28, 2011 she sustained a sprain to her hip and buttocks when she slipped and fell. She stopped work on May 28, 2011 and returned on May 31, 2011.

¹ 5 U.S.C. § 8101 *et seq.*

Appellant notified her supervisor on June 3, 2011. The employing establishment controverted the claim.

By letter dated June 15, 2011, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

On May 28, 2011 appellant stated that she was feeling weak due to illness and fell when walking up the stairs. She reported the incident after she finished overtime at work about four to five hours later.

In medical reports dated June 1 to 10, 2011, Dr. Horacio Oria, a treating physician, reported a history that on May 28, 2011 appellant felt her knees get weak and fell on her buttocks on a concrete floor when delivering mail. Appellant complained of pain in her tailbone and the buttocks area which manifested mostly when sitting or bending. Dr. Oria reported that x-rays were negative for fracture or dislocation and diagnosed bilateral contusion of the buttocks.

By decision dated July 15, 2011, OWCP denied appellant's claim finding that the medical evidence did not establish an injury related to the May 28, 2011 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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, that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

The employee must submit rationalized medical opinion evidence to establish a causal relationship between the condition, and any attendant disability claimed and the employment event or incident.⁵ The opinion of the physician must be based on a complete factual and

² Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

³ Michael E. Smith, 50 ECAB 313 (1999).

⁴ Elaine Pendleton, *supra* note 2.

⁵ See 20 C.F.R. § 10.110(a); John M. Tornello, 35 ECAB 234 (1983).

medical background of the claimant, 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 claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of 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.⁶

ANALYSIS

OWCP accepted that the May 28, 2011 incident occurred as alleged. The issue is whether appellant established that the incident caused bilateral contusion of the buttocks. The Board finds that she did not submit sufficient medical evidence to support that her bilateral contusion of the buttocks is causally related to the May 28, 2011 employment incident.⁷

Appellant submitted medical reports dated June 1 to 10, 2011 from Dr. Oria who obtained a history that, on May 28, 2011, appellant was delivering mail when she felt her knees became weak and fell on her buttocks on a concrete floor. Dr. Oria reported that x-rays were negative for fracture or dislocation and diagnosed bilateral contusion of the buttocks.

The Board finds that the reports of Dr. Oria do not present well-rationalized medical opinion on causal relation. Dr. Oria's history of the May 28, 2011 employment incident conformed with appellant's factual assertions. The incident has been accepted to have occurred as alleged. Dr. Oria provided no additional details about the mechanism of the alleged injury. He failed to provide a full medical history or adequately explain how the accepted May 28, 2011 incident caused or contributed to the diagnosed bilateral contusion of the buttocks. The Board has held that medical evidence that does not offer a rationalized opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁸ Thus, Dr. Oria's reports are insufficient to meet appellant's burden of proof.

In the instant case, the record is without rationalized medical evidence to establish that the diagnosed medical condition is causally related to the accepted May 28, 2011 employment incident. 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 her burden of proof to establish that she sustained bilateral contusion of the buttocks on May 28, 2011 in the performance of duty, as alleged.

⁶ *James Mack*, 43 ECAB 321 (1991).

⁷ *See Robert Broome*, 55 ECAB 339 (2004).

⁸ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated July 15, 2011 is affirmed.

Issued: March 9, 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