



## **FACTUAL HISTORY**

On July 30, 2012 appellant, then a 56-year-old emergency firefighter, filed a traumatic injury claim alleging that, on June 17, 2012, while in the performance of duty, he became sick while eating at camp. He indicated that he had aching joints, fever, nausea, slight vomiting, was unable to eat, diarrhea and a severe sore throat. Appellant indicated that he “did not know” how it happened. The employing establishment checked the box “yes” in response to whether their knowledge of the facts about the injury agreed with the statements of the employees and witnesses.

In a letter dated August 14, 2012, OWCP requested that appellant submit additional factual and medical evidence with respect to his claim for compensation. It requested further information as to how the injury occurred, the immediate effects of the injury and whether or not appellant had a similar disability or symptoms before the injury.

In a June 29, 2012 authorization for examination and treatment and attending physician’s report, Dr. Culle F. Shigna, a treating physician, indicated that appellant was disabled for the period June 17 to 24, 2012 and could return to regular duty on June 29, 2012.

A June 18, 2012 message from the medical unit leader indicated that appellant was “demobbed” due to an existing injury/illness and would pursue follow up from his physician.

By decision dated September 17, 2012, OWCP denied appellant’s claim on the grounds that he did not establish an injury as alleged. It found that the factual aspects of the claim were not sufficient to establish an injury in the performance of duty as appellant did not describe the specific injury that occurred. OWCP also found that appellant did not submit any medical evidence containing a diagnosis.

## **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 timely filed within the applicable time limitation period of FECA and that an injury was sustained in the performance of duty.<sup>3</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.<sup>5</sup> In some traumatic injury cases, this component can

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<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>5</sup> *Julie B. Hawkins*, 38 ECAB 393, 396 (1987).

be established by an employee's uncontroverted statement on the Form CA-1.<sup>6</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

### **ANALYSIS**

Appellant alleged that he became ill while eating while at work. In a letter dated August 14, 2012, OWCP requested that he provide a detailed description as to how the injury occurred, but no response was received. As appellant failed to describe how he sustained his injury, he has provided insufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Thus, the Board finds that he has not met the first component of fact of injury. Therefore, appellant has not established that he sustained a June 17, 2012 employment incident in the performance of duty.

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 in establishing that he sustained an injury in the performance of duty.

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<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *See John J. Carlone, id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 17, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 29, 2013  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board