

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

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**P.T., Appellant**

**and**

**U.S. POSTAL SERVICE, DeMOSS STATION,  
Houston, TX, Employer**

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**Docket No. 13-1851  
Issued: November 21, 2013**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
PATRICIA HOWARD FITZGERALD, Judge  
ALEC J. KOROMILAS, Alternate Judge

**JURISDICTION**

On August 6, 2013 appellant filed a timely appeal of a May 9, 2013 decision of the Office of Workers' Compensation Programs (OWCP) denying her traumatic injury claim. 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 the case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she sustained an injury in the performance of duty on December 1, 2012, as alleged.

On appeal, appellant described how her injury occurred and contends that she suffered an injury to her right little finger as a result.

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

## **FACTUAL HISTORY**

On December 1, 2012 appellant, then a 57-year-old letter carrier, filed a traumatic injury claim alleging that on that date her left foot got caught in a seat belt and that, as a result, she sustained an injury to the little finger on her right hand. In an accompanying statement, appellant indicated that when she got out of her vehicle to make a delivery, the seat belt did not retract and her left foot got tangled in it. While she was trying to break her fall, appellant fell and hurt her right finger, right forearm, left finger and left knee.

Appellant submitted notes from the emergency department of Memorial Hermann Southwest Hospital dated December 1, 2012. She was treated in the emergency department by Dr. Amy Ramesh Patel, an osteopath, who diagnosed right hand injury and hypertension, and prescribed Motrin 400 milligram tablets.

By letter dated December 26, 2012, OWCP informed appellant that further information, including medical evidence, must be submitted in support of her claim.

In a December 1, 2012 x-ray report of appellant's left hand, Dr. Jeffrey Goldstein, a Board-certified radiologist, opined that there was no acute fracture or lesion.

By decision dated January 25, 2013, OWCP denied appellant's claim as she had not submitted medical evidence that contained a medical diagnosis. The claim was further denied because the medical evidence did not establish a causal relationship between the accepted factors of appellant's federal employment and a medical condition.

On February 6, 2013 appellant requested review of the written record by an OWCP hearing representative.

By decision dated May 9, 2013, OWCP's hearing representative affirmed the January 25, 2013 decision.

## **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, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>2</sup>

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

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<sup>2</sup> *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.<sup>3</sup> An injury does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action.<sup>4</sup> An employee has not met his or her burden of proof to establish the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.<sup>5</sup> However, an employee's statement regarding the occurrence of an employment incident is of great probative force and will stand unless refuted by strong or persuasive evidence.<sup>6</sup>

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>7</sup> The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and 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.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on December 1, 2012 as the medical evidence is insufficient to support her claim for compensation.

Appellant established that she experienced the employment incident on December 1, 2012. However, OWCP denied appellant's claim as she failed to submit rationalized medical evidence that established a medical diagnosis or showed that this medical diagnosis was causally related to the accepted employment incident. Dr. Patel diagnosed right hand injury and hypertension. Appellant has not suggested that her hypertension is related to the employment incident and there is no evidence to suggest such a relationship. Dr. Patel noted a right hand injury, but her report contained no firm diagnosis, no rationale and no explanation of the mechanism of the injury.<sup>9</sup> She never discussed the work incident. As Dr. Patel neither

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<sup>3</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

<sup>4</sup> See *Betty J. Smith*, 54 ECAB 174 (2002).

<sup>5</sup> *D.G.*, Docket No. 13-870 (issued July 16, 2013).

<sup>6</sup> *Gregory J. Reser*, 57 ECAB 277 (2005).

<sup>7</sup> *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

<sup>8</sup> *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

<sup>9</sup> See *J.R.*, Docket No. 13-575 (issued August 20, 2013).

provided a firm diagnosis nor related that diagnosis to the accepted employment incident, her report does not establish appellant's claim.

Dr. Goldstein noted that there was no acute fracture or lesion in appellant's left hand, he also gave no firm diagnosis or rationale and explanation of the mechanism of injury. There is no other medical evidence in the record that establishes a specific medical diagnosis of an injury, nor is there evidence that an injury was sustained that was causally related to the accepted employment incident. Accordingly, appellant has not established her claim under FECA.

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 her burden of proof to establish that she sustained an injury in the performance of duty on December 1, 2012, as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 9, 2013 is affirmed.

Issued: November 21, 2013  
Washington, DC

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

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board