

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

E.B., Appellant

and

**DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL
CENTER, Salt Lake City, UT, Employer**

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**Docket No. 14-992
Issued: September 15, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 25, 2014 appellant filed a timely appeal from a November 20, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). 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.²

ISSUE

The issue is whether appellant has established a laceration of the left hand in the performance of duty.

¹ 5 U.S.C. §§ 8101-8193.

² The Board notes that appellant submitted new evidence to OWCP after November 20, 2013. Under 20 C.F.R. § 501.2(c)(1) (2012), the Board may not consider evidence for the first time on appeal. Appellant may submit that evidence, along 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.

FACTUAL HISTORY

On September 16, 2013 appellant, then a 42-year-old telephone operator, filed a traumatic injury claim (Form CA-1) claiming that on August 11, 2013, she sustained a knife wound to her left hand during her lunch break while using a steak knife to remove an avocado pit. Her supervisor confirmed that the injury occurred during appellant's scheduled lunch break.

In an October 9, 2013 letter, OWCP advised appellant of the additional evidence needed to establish her claim, including a medical report from her attending physician diagnosing an injury and supporting a causal relationship between that injury and the August 11, 2013 incident. Appellant was afforded 30 days to submit such evidence. She did not submit additional evidence.

By decision dated November 20, 2013, OWCP denied appellant's claim on the grounds that fact of injury was not established. It accepted that the August 11, 2013 incident occurred at the time, place and in the manner alleged and that she was in the performance of duty. OWCP further found, however, that as appellant had not submitted any medical evidence, she did not establish an injury.

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 and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

In order to determine whether an employee sustained a traumatic 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 that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.⁵ 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.⁶

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's opinion on the issue of whether there is a

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *Deborah L. Beatty*, 54 ECAB 340 (2003).

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, 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.⁷

ANALYSIS

Appellant claimed that she sustained a left hand laceration on August 11, 2013 while preparing food during her scheduled lunch break. OWCP accepted that this incident occurred as alleged and was within the performance of duty. However, it denied the claim as there was no medical evidence diagnosing an injury. OWCP advised appellant by October 9, 2013 letter that in order to establish her claim, she must submit medical evidence diagnosing an injury as claimed. The Board finds that she submitted no medical evidence prior to OWCP's November 20, 2013 decision. Appellant did not provide the necessary proof that she sustained a left hand laceration as alleged. Therefore, OWCP's November 20, 2013 decision denying her claim is proper under the law and facts of this case.

CONCLUSION

The Board finds that appellant has not established a left hand injury in the performance of duty as alleged.

⁷ *I.J.*, 59 ECAB 408 (2008).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 20, 2013 is affirmed.

Issued: September 15, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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