

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

D.B., Appellant)

and)

DEPARTMENT OF THE AIR FORCE,)
LOGISTICS READINESS SQUAD,)
HOLLOMAN AIR FORCE BASE, NM,)
Employer)

**Docket No. 15-365
Issued: April 8, 2015**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 8, 2014 appellant filed a timely appeal of an October 27, 2014 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.

ISSUE

The issue is whether appellant established that he sustained a traumatic injury in the performance of duty on June 18, 2014, as alleged.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 10, 2014 appellant, then a 52-year-old heavy mobile equipment mechanic, filed a traumatic injury claim alleging that on June 18, 2014 his left wrist began to hurt after rebuilding a hydraulic cylinder weighing approximately 80 pounds. He indicated the injury as left wrist pain on rotation.

In a July 29, 2014 report, Dr. Allan Rickman, a treating physician specializing in sports medicine, diagnosed left wrist sprain and left hand/wrist tendinitis. He related that the injury occurred while appellant was at work on June 18, 2014. Appellant related that he could not “recall the exact injury,” but he was at work and believes he twisted his hand while at work. A physical examination revealed tenderness and pain related to supination and primarily in the triangular fibrocartilage complex (TFCC) region. No abnormality, dislocation, or acute fracture was seen in a left wrist x-ray interpretation.

In an August 12, 2014 left wrist magnetic resonance imaging (MRI) scan, Dr. Richard S. Nenoff, an examining Board-certified diagnostic radiologist, described a hypertension injury occurring approximately eight weeks previously due to lifting a heavy object. Diagnoses included: carpi ulnaris extensor tendon sub sheath stripping injury, minimal carpi ulnaris extensor tendinopathy, no fractures, bipartite versus old ununited trapezoid fracture, and triangular fibrocartilage degenerative change with probable perforation.

In an August 15, 2014 note, Dr. Rickman diagnosed wrist sprain, wrist sprain and TFCC tear, and hand/wrist tendinitis. He recommended occupational therapy three times per week for three weeks.

In a September 12, 2014 report, Dr. Rickman noted that appellant had a history of a small TFCC perforation and extensor carpi ulnaris (ECU) strain. He stated that “[t]he onset was sudden with an injury which occurred sudden onset on about June 18, 2014, almost [three] months ago” and that it occurred at work. Appellant related “he does not recall the exact injury,” but that he was at work and believes “he twisted the hand wrong.”

By letter dated September 22, 2014, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him that the evidence was insufficient to establish that the incident occurred as alleged and that the medical evidence was insufficient to establish a causal relationship between the diagnosed condition and alleged incident. Appellant was advised as to the medical and factual evidence required to establish his claim and given 30 days to provide this information.

On September 23, 2014 OWCP received an August 15, 2014 report by Dr. Rickman who provided physical findings and diagnosed left wrist sprain and left had/wrist tendinitis. Dr. Rickman related that onset occurred on June 18, 2014 at work, but appellant could not recall exactly how the injury occurred. Appellant related that he believes that the injury was due to his twisting his hand wrong while working. A physical examination revealed tenderness of the right wrist and hand with pain and tenderness related to supination and primarily the TFCC region.

By decision dated October 27, 2014, OWCP denied appellant's claim on the grounds that the evidence was insufficient to establish that the incident occurred as alleged since the record contained no description of the work injury or how it caused or aggravated a medical condition. In addition, it also informed him that the medical evidence of record was insufficient to establish that the diagnosed left wrist sprain and TFCC tear were caused or aggravated by the alleged incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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

OWCP regulations, at 20 C.F.R. § 10.5(ee) define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift.⁵ To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.⁶ 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.⁷ 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.⁸

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the

² 5 U.S.C. § 8101 *et seq.*

³ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁴ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB 530 (2004).

⁶ *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

⁷ *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 3.

⁹ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

compensable employment factors.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.¹¹

ANALYSIS

The Board finds that appellant has failed to establish that he sustained an injury in the performance of duty on June 18, 2014, as alleged. Appellant claimed to have experienced left wrist pain following rebuilding a hydraulic cylinder weighing approximately 80 pounds. However, he did not file his claim until July 10, 2014 and did not seek medical care until July 29, 2014. The medical reports submitted cast doubt on how the injury occurred as they note that appellant could not recall how the injury occurred. OWCP asked him to provide a detailed description as to how his injury occurred, including where he was and what he was doing at the time. Appellant did not provide the requested factual information and there were no reported witnesses.

Appellant bears the burden of establishing the essential elements of his claim, which includes fact of injury. Other than noting that he had just finished rebuilding a hydraulic cylinder when he felt left wrist pain, he did not provide specific details of a particular work activity or incident that gave rise to his right forearm pain. An employee's statement alleging that an incident or exposure occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.¹² In the absence of such a statement, OWCP properly found that appellant failed to establish fact of injury. Moreover, the Board notes that the July 29 and September 12, 2014 reports, Dr. Rickman related that appellant could not recall how he reportedly injured his left wrist, while an August 12, 2014 MRI scan by Dr. Nenoff related that the injury occurred eight weeks previously due to lifting a heavy object. Under the circumstances, OWCP properly determined that appellant had not established that the incident occurred as alleged.

In its September 22, 2014 development letter, OWCP informed appellant that the information initially provided was insufficient to support his claim. Appellant was provided a series of questions regarding the factual circumstances of the alleged incident and advised to provide details which would clarify the nature of her claim. He provided no factual response, however, to OWCP's request for information.

As seen, appellant has not met his burden of proof to establish that he experienced the employment incident at the time, place, and in the manner alleged or that it caused an injury.¹³

¹⁰ *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

¹¹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹² *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Sedi L. Graham*, 57 ECAB 494 (2006).

¹³ *T.C.*, Docket No. 12-579 (issued July 2, 2012); *Paul Foster*, 56 ECAB 208 (2004).

As he has not met his burden of proof to establish the fact of injury, it is not necessary to discuss the probative value of the medical reports.¹⁴

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 failed to establish that he sustained an injury in the performance of duty on June 18, 2014, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 27, 2014 is affirmed.

Issued: April 8, 2015
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

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

¹⁴ Tracey P. Spillane, 54 ECAB 608 (2003).