



## **FACTUAL HISTORY**

On September 23, 2014 appellant, then a 45-year-old fire range technician, filed a traumatic injury claim alleging that on September 20, 2014 he suffered dehydration, hypothermia, and fatigue as the result of falling into a creek after hiking to the bottom of a canyon to scout the fire line.

To support his claim, appellant submitted a September 20, 2014 Medic Unit Prehospital Care Report noting that he complained of dehydration and a right knee injury. He related that he fell into a river and hit his right knee while “trying to hike out on the King Fire.” The report stated that appellant related feeling cold and dehydrated.

A September 20, 2014 State of California Doctor’s First Report of Occupational Injury or Illness form signed by Dr. Richard Dunning, an examining Board-certified emergency room physician, related that the injury occurred while he was clearing brush and went to cross a creek, as he was sweating profusely. While crossing the creek appellant hurt his knee and got wet when he slipped on a rock. He noted that he was also hungry and had no fluids since 11:00 a.m. Dr. Dunning stated that appellant was given intravenous fluids and released to return to work on September 22, 2014.

Appellant also submitted patient discharge instructions dated September 20, 2014 from Marshall Medical Center Emergency Room revealing that appellant could return to work on September 20, 2014.<sup>3</sup>

By letter dated December 3, 2014, OWCP notified appellant that his claim was initially administratively handled to allow medical payments, as his claim appeared to involve a minor injury resulting in minimal or no lost time from work. However, it advised that it was now considering the merits of his claim. Appellant was advised that evidence was insufficient to establish his claim. OWCP asked him to submit a response to a questionnaire in order to substantiate the factual basis of his claim and a medical report from his attending physician including a diagnosis, history of the injury, and a physician’s opinion on causal relationship supported by medical rationale. It specifically noted that no diagnosed condition had been made in connection with the September 20, 2014 incident. Appellant was given 30 days to provide the requested information. No evidence was received.

By decision dated January 15, 2015, OWCP denied appellant’s claim as fact of injury was not established. It found the record was devoid of any medical evidence containing a diagnosed medical condition due to the accepted September 20, 2014 incident.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of establishing the essential elements of his claim, including the fact that the individual is an employee of the United States

---

<sup>3</sup> The physician’s signature on the form is illegible.

<sup>4</sup> 5 U.S.C. § 8101 *et seq.*

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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup> First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>9</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>10</sup>

### ANALYSIS

OWCP accepted the employment incident of September 20, 2014 at the time, place, and in the manner appellant had alleged. The issue is whether appellant sustained an injury as a result of the September 20, 2014 employment incident. The Board finds that he did not establish a medical condition causally related to the employment incident.

In the September 20, 2014 emergency room report, Dr. Dunning, an examining Board-certified emergency room physician, identified the incident, stated that intravenous fluids were given, and released appellant to return to work on September 22, 2014. He did not diagnose a medical condition causally related to the employment incident.<sup>11</sup>

The remaining evidence is also insufficient because there is no diagnosed medical condition in either report. The discharge note stated that appellant could return to work on September 20, 2014 while the Medic Unit Prehospital Care report provided information about appellant's complaints of dehydration and right knee injury. These documents are not medical

---

<sup>5</sup> C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>6</sup> S.P., 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>8</sup> B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 5.

<sup>9</sup> D.B., 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

<sup>10</sup> C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 5.

<sup>11</sup> See *T.L.*, Docket No. 11-1668 (issued February 10, 2012); *Ruth C. Borden*, 43 ECAB 146 (1991); *Val D. Wynn*, 40 ECAB 666 (1989).

evidence because they were not prepared by a physician.<sup>12</sup> For that reason, they fail to establish a medical diagnosis arriving from the September 20, 2014 employment incident.

The record before the Board lacks any rationalized medical evidence with a diagnosed medical condition causally related to the accepted employment incident. OWCP advised appellant that he must provide a comprehensive medical report which described his symptoms, test results, diagnosis, treatment, and include a physician's opinion on the cause of his condition. Appellant failed to submit medical documentation in response to OWCP's request. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.<sup>13</sup> An award of compensation may not be based on surmise, conjecture, speculation or on the employee's own belief of causal relation.<sup>14</sup> As there is no probative, rationalized medical evidence containing a medical diagnosis and explaining how the diagnosed condition was causally related to the accepted September 20, 2014 incident, he has not met his burden of proof.

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 to establish that he sustained an injury in the performance of duty on September 20, 2014, as alleged.

---

<sup>12</sup> Medical evidence upon which OWCP relies upon to resolve an issue must be in writing and signed by a qualified physician. See *James A. Long*, 40 ECAB 538 (1989).

<sup>13</sup> *L.D.*, Docket No. 09-1503 (issued April 15, 2010); *D.I.*, 59 ECAB 158 (2007); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>14</sup> *S.S.*, 59 ECAB 315 (2008); *J.M.*, 58 ECAB 3003 (2007); *Donald W. Long*, 41 ECAB 142 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 15, 2015 is affirmed.

Issued: August 21, 2015  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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