

FACTUAL HISTORY

On December 12, 2014 appellant, then a 37-year-old mail handler, filed a traumatic injury claim alleging on that date she was reaching above her head attaching labels when she injured her right shoulder. In a statement dated December 12, 2014, she asserted that she was attaching labels and her right shoulder was hurting when she lifted it.

Appellant's supervisor controverted the claim as appellant had been complaining of shoulder pain on December 11, 2014 and was taking over-the-counter medication for the pain. The supervisor did not believe appellant's allegation of a traumatic injury on December 12, 2014.

On December 16, 2014 OWCP requested that appellant provide additional factual and medical evidence in support of her claim. No response was received.

By decision dated January 28, 2015, OWCP denied appellant's claim as she had failed to submit sufficient factual evidence to establish that an employment event occurred on December 12, 2014, as alleged. It found that she had failed to provide a detailed personal statement clarifying the date of injury and how her right shoulder injury occurred. OWCP further noted that appellant failed to provide any medical evidence of a diagnosed condition due to her employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and 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 or specific condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵

OWCP defines 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. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."⁶ 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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment

³ 5 U.S.C. §§ 8101-8193.

⁴ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ 20 C.F.R. § 10.5(ee).

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 The Board has held that medical opinions that are speculative or equivocal in character diminish the probative value of the medical opinion.⁹

ANALYSIS

The Board finds that appellant has failed to meet her burden of proof to establish a traumatic injury claim, as alleged.

Appellant alleged that she sustained a traumatic injury to her right shoulder on December 12, 2014 while applying labels above her head in the performance of duty. Appellant's supervisor controverted her claim, asserted that when requesting the traumatic injury claim form appellant stated that she had right shoulder pain on December 11, 2014 which required her to take medication. OWCP requested that appellant clarify the factual basis of her claim and provide medical evidence of a diagnosed condition in a letter dated December 16, 2014, but appellant did not present any additional factual evidence or any medical evidence in support of a right shoulder injury. OWCP denied her claim on January 28, 2015.

The Board further finds that appellant has not met her burden of proof to establish an injury due to her federal employment as she has submitted no medical evidence in support of her claim.¹⁰

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 a right shoulder injury in the performance of duty on December 12, 2014, as alleged.

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *J.Z.*, 58 ECAB 529 (2007).

⁹ *A.G.*, Docket No. 12-659 (issued August 22, 2012); *D.D.*, 57 ECAB 734, 738 (2006).

¹⁰ *T.M.*, Docket No. 13-0577 (issued June 13, 2013) (finding that the claimant failed to submit any medical evidence and therefore failed to *prima facie* establish her claim for compensation as the result of a traumatic injury).

ORDER

IT IS HEREBY ORDERED THAT the January 28, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 26, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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