

car struck the rear of his vehicle. He stated that there was swelling on the right side of his right hand and pain in his lower back. In a motor vehicle accident report (SF-91), appellant indicated that there were scratches on the rear bumper of the car, with no other damage. In an August 2, 2013 statement, an employing establishment manager indicated that the incident occurred during work hours while appellant was on a field appointment.

On August 19, 2013 appellant submitted a July 23, 2013 form report from Dr. Lawrence Allen, an internist, indicating that x-rays of the right hand and spine had been taken. The report indicated a fifth digit fracture was found.

By decision dated August 28, 2013, OWCP denied the claim for compensation. It accepted that an incident in the performance of duty occurred as alleged, but found that the medical evidence was insufficient to establish an injury causally related to the incident.

Appellant requested an oral hearing with an OWCP hearing representative, which was held on March 31, 2014. At the hearing he stated that he was near an accountant's office where he had been performing an audit. Appellant was rear ended by another vehicle while at a stoplight. He stated that the impact jammed his finger against the steering wheel. On March 13, 2014 OWCP received an x-ray report of the right hand by Dr. Clement Herred, a radiologist. The diagnosis was early degenerative changes of the interphalangeal joint. Dr. Herred also diagnosed degenerative disc disease of the lumbar spine. In a statement dated March 3, 2014, appellant stated that the impact of the vehicle hitting his car from the rear jammed his finger against the steering wheel, causing a broken finger.

In a narrative report dated July 26, 2013, Dr. Allen stated that appellant was complaining of low back pain.² He stated that appellant had pain and some swelling in his right hand on the ulnar side. Dr. Allen stated, "[Appellant] was hit in the side by another driver. [Appellant] does not recall hitting his hand but there is some swelling." Dr. Allen diagnosed contusion of the right hand, displaced fracture of the proximal phalanx of the right index finger, and degenerative joint disease of the lumbar spine. He stated that appellant was involved in a motor vehicle accident and has a fracture of the fifth digit, and tenderness in the lumbar spine.

By decision dated May 8, 2014, the hearing representative affirmed the August 28, 2013 decision. She found that the medical evidence was insufficient to establish the claim for compensation.

LEGAL PRECEDENT

FECA provides for the payment of compensation for "the disability or death of an employee resulting from personal injury sustained while in the performance of duty."³ The phrase "sustained while in the performance of duty" in FECA is regarded as the equivalent of the commonly found requisite in workers' compensation law of "arising out of an in the course of

² The report was dated July 26, 2013. Some of the notes included in the report are dated July 23, 2013.

³ 5 U.S.C. § 8102(a).

employment.”⁴ An employee seeking benefits under FECA has the burden of establishing that he or she sustained an injury while in the performance of duty.⁵ 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 conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.⁶

To be of probative value, the medical opinion evidence must be based on a complete factual and medical background, of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician’s opinion.⁷

ANALYSIS

In the present case, OWCP accepted that appellant was involved in a motor vehicle accident on July 17, 2013 while in the performance of his duties as a revenue agent. Appellant stated that he was rear ended while at a stoplight. The issue is whether the medical evidence is sufficient to establish a diagnosed injury causally related to the employment incident.

In this regard, the Board finds that the medical evidence of record is insufficient to meet appellant’s burden of proof. It is not sufficient for a physician to diagnose a condition and simply state that it is related to a motor vehicle accident.⁸ As the Board has noted, a claimant must submit a medical report from a physician with an accurate history of injury, a diagnosis of his or her condition, and reasoned medical opinion that explains how his or her medical condition was caused by the accepted motor vehicle accident.⁹ Dr. Allen provided only a brief history that appellant was hit from the side and did not recall hitting his hand. This does not represent an accurate or complete history of injury, as appellant reported being hit from the rear. As of March 3, 2014, appellant stated that his hand was jammed into the steering wheel. Dr. Allen did not describe the incident or provide a complete and accurate history in his July 26, 2013 report.

In addition, Dr. Allen did not provide a medical opinion that was supported by sound medical reasoning on causal relationship between a diagnosed condition and the employment

⁴ *Valerie C. Boward*, 50 ECAB 126 (1998).

⁵ *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

⁶ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

⁷ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

⁸ *See I.J.*, Docket No. 14-1109 (issued October 16, 2014).

⁹ *C.H.*, Docket No. 13-432 (issued June 5, 2013).

incident. There was a diagnosis of a hand contusion, with no opinion on causal relationship. As to the diagnosis of displaced fracture, Dr. Allen stated that appellant was involved in a motor vehicle accident. He did not, as noted above, provide a clear description of the incident with respect to the finger and his statement is not a rationalized medical opinion. With respect to the back, Dr. Allen diagnosed degenerative disc disease. To the extent he was attempting to relate a diagnosed back condition to the employment incident, he provided no medical reasoning or explanation. The record contains an x-ray report from Dr. Herred, a radiologist, who diagnosed early degenerative changes of the interphalangeal joint and diagnosed degenerative disc disease of the lumbar spine. His report is devoid of discussion of causal relationship.

The Board accordingly finds that appellant did not meet his burden of proof in this case. The record does not contain a medical report sufficient to establish a diagnosed condition causally related to the employment incident.

On appeal, appellant states that the medical evidence substantiates a claim for compensation. He states that nothing short of having Dr. Allen in his car would establish his claim under OWCP's analysis. For the reasons discussed above, the Board finds the medical evidence of record is of diminished probative value to the issue presented.

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 established a hand or back injury in the performance of duty on July 17, 2013.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 8, 2014 is affirmed.

Issued: February 10, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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