

advised that notice of injury was also received on December 12, 2014. Appellant stopped work on November 8, 2014 and began receiving continuation of pay on November 9, 2014.²

In a November 8, 2014 statement accompanying the claim, appellant asserted that he felt a twinge in his lower back while dispatching letters.

In a November 10, 2014 report, Dr. Michael Collins, a Board-certified internist, noted examining appellant on November 8, 2014. He advised that appellant was injured when he was pushing a cart on November 8, 2014. Dr. Collins diagnosed low back strain and indicated that appellant could only perform modified work.

In a January 12, 2015 decision, OWCP accepted appellant's claim for low back strain. It requested appellant to provide evidence to support whether written notice of injury was given within 30 days of injury, as the evidence indicated that the employing establishment was not informed until December 12, 2014.

Appellant submitted additional evidence, but he did not provide any further evidence regarding whether the employing establishment was given earlier written notice of his injury.

In a February 19, 2015 decision, OWCP denied appellant's request for continuation of pay, finding that the injury was not reported on an appropriate form within 30 days of the injury. The decision specified that it only concerned entitlement to continuation of pay and did not affect appellant's entitlement to other compensation benefits.

LEGAL PRECEDENT

Section 8118 of FECA³ provides for payment of continuation of pay, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to traumatic injury with his or her immediate supervisor on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title. Section 8122(a)(2) provides that written notice of injury must be given as specified in section 8119. The latter section provides in part that notice of injury shall be given in writing within 30 days of the injury.⁴ Claims that are timely under section 8122 are not necessarily timely under section 8118(a). FECA authorizes continuation of pay for an employee who has filed a valid claim for traumatic injury.⁵ Section 8118(a) makes continuation of pay contingent on the filing of a written claim within 30 days of the injury.

² The Board notes that two different versions of the first page of the traumatic injury claim form were submitted to OWCP by the employing establishment. One contains appellant's signature, but is essentially illegible. The other lists the date of injury and the date of notice as November 8, 2014, and contains a handwritten notation that it was completed "for clarity purposes only."

³ 5 U.S.C. § 8118.

⁴ *Id.* at § 8119(a), (c); *see also Gwen Cohen-Wise*, 54 ECAB 732 (2003).

⁵ *Id.* at § 8118(a).

When an injured employee makes no written claim for a period of wage loss within 30 days, he or she is not entitled to continuation of pay, notwithstanding prompt notice of injury.⁶

Section 10.205 of OWCP regulations provide in pertinent part that to be eligible for continuation of pay, a person must: (1) have a traumatic injury which is job related and the cause of the disability, and/or the cause of lost time due to the need for medical examination and treatment; (2) file Form CA-1 within 30 days of the date of the injury; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁷

ANALYSIS

Appellant filed a traumatic injury claim on November 8, 2014 for an injury sustained that date. However, appellant's supervisor noted that he did not receive the claim form until December 12, 2014, more than 30 days after appellant's November 8, 2014 injury. In OWCP's January 12, 2015 decision, it requested appellant to submit evidence of an earlier written claim. No evidence was received by OWCP which supports an earlier written notice. The evidence of record establishes that appellant did not file his claim within 30 days from the date of injury, as required by section 10.205(a)(2) of OWCP's regulations.⁸ The Board therefore finds that appellant is not entitled to continuation of pay.

On appeal, appellant submitted documentation indicating that he began receiving wage-loss compensation in January 2015.⁹ The Board's jurisdiction in this appeal is limited to appellant's continuation of pay claim.

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 is not entitled to continuation of pay.

⁶ See *P.R.*, Docket No. 08-2239 (issued June 2, 2009); see also *W.W.*, 59 ECAB 533 (2008).

⁷ 20 C.F.R. § 10.205(a).

⁸ See *Guy W. Adkins*, Docket No. 94-177 (issued on June 6, 1995) (finding that the notice of traumatic injury claim form was "filed," for continuation of pay purposes, on the date reflected in the official supervisor's report).

⁹ Appellant submitted new evidence on appeal. The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. The Board has no jurisdiction to review evidence submitted for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the February 19, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 28, 2015
Washington, DC

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

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

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