United States Department of Labor
Employees' Compensation Appeals Board

I.D., Appellant	)	
and	)	**Docket No. 15-300**
	)	**Issued: March 23, 2015**
DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS, FEDERAL CORRECTION CENTER, Coleman, FL, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On November 21, 2014 appellant filed a timely appeal from a November 10, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 an injury in the performance of duty on September 9, 2014, as alleged.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 9, 2014 appellant, then a 48-year-old correction officer, filed a traumatic injury claim alleging that, on that date at 5:30 p.m., the back rest of his chair shifted and came loose, which caused him to fall out of the chair and land on his right shoulder. He alleged that, as a result, he sustained injuries to his right shoulder and right wrist. The employing establishment checked a box on the claim form indicating that the employee was injured in the performance of duty.

In support of his claim, appellant submitted a form report with an illegible signature from the medical center at the employing establishment indicating that he was seen on September 9, 2014 at "1815" hours or (6:15 p.m.) for right shoulder pain. He stated in the history section of this report that he fell out of a chair and landed on his shoulder. Appellant also submitted Florida Workers' Compensation forms dated September 10 and 11, 2014 wherein Dr. Carlos R. Vazquez, a Board-certified internist with U.S. Healthworks Medical Group noted an employment-related injury of September 9, 2014 with a diagnosis of sprain of the shoulder, arm, and wrist.

Additionally, appellant submitted the results of a magnetic resonance imaging (MRI) scan of September 11, 2014, which was interpreted by Dr. Wayne Poole, a Board-certified radiologist, as evincing partial thickness tear versus tendinopathy of the supraspinatus tendon and degenerative changes involving the acromioclavicular joint.

By letter dated October 1, 2014, OWCP informed appellant of additional information that was needed to support his claim. In response, appellant submitted notes by Dr. Vazquez, diagnosing right wrist sprain and right shoulder sprain.

By decision dated November 10, 2014, OWCP denied appellant's claim on the "factual component" as he had not established that an event occurred as alleged. Therefore, appellant had not established fact of injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 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 and/or specific condition for which compensation is claimed are causally related to the employment injury. 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.[2]

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

[2] *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.[3] In order to meet his or her burden of proof to establish the fact that he or she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he or she actually experienced the employment injury or exposure at the time, place, and in the manner alleged.[4]

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on a claimant's statements. The employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.[5] However, an employee's statement alleging that an injury 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.[6]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[7] The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.[8]

ANALYSIS

Appellant filed a claim alleging that, during the course of his federal employment, on September 9, 2014 at 5:30 p.m. he fell out of his chair when the back rest shifted. OWCP denied his claim for a traumatic injury on the basis that he had not provided sufficient evidence to establish that the incident occurred as alleged.

The Board finds that appellant has submitted sufficient evidence to establish that the September 9, 2014 incident occurred as alleged. Appellant provided a consistent history of injury on the claim form and to the medical personnel. He also sought medical treatment

[3] *See Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

[4] *Linda S. Jackson*, 49 ECAB 486 (1998).

[5] *T.B.*, Docket No. 13-1823 (issued March 20, 2014).

[6] *D.B.*, 58 ECAB 1143 (1989); *see also K.R.*, Docket No. 14-552 (issued October 29, 2014).

[7] *See Shirley A. Temple*, 48 ECAB 404, 407 (1997); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

[8] *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

contemporaneous with the alleged injury. Appellant alleged that the incident occurred on September 9, 2014 at 5:30 p.m. (1730 hours), and there is an indication that he was treated at the employing establishment's medical center at 1815 hours or (6:15 p.m.) on the same date for right shoulder pain. He sought follow-up medical treatment within the next two days, as is evinced by the treatment notes from Dr. Vazquez. The employing establishment does not dispute the employment incident, as noted on the claim form. The Board finds that there are no inconsistencies so as to cast serious doubt as to the validity of the occurrence of the September 9, 2014 incident. Furthermore, there is no contrary factual evidence. Accordingly, the Board finds that appellant fell out of his chair at the employing establishment on September 9, 2014, as alleged.

The Board finds, however, that appellant has not submitted sufficient medical opinion evidence to establish that this incident resulted in an injury to his right shoulder or wrist. Although Dr. Vazquez noted that appellant sustained an employment-related injury to his shoulder, arm, and wrist, he did not provide any explanation or rationale supporting the conclusion reached. His reports are therefore insufficient to establish causal relationship. Furthermore, although Dr. Poole noted positive findings on the MRI scan, he did not make any statement with regard to causation. Appellant must submit detailed medical opinion evidence explaining how the September 9, 2014 employment incident caused the diagnosed injuries.[9] As he did not submit a rationalized medical opinion supporting that his injuries were causally related to the accepted September 9, 2014 employment 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 established that the September 9, 2014 employment incident occurred as alleged, but failed to submit sufficient medical evidence to establish that he sustained an injury resulting from the employment incident.

[9] *See K.R., supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 10, 2014 is affirmed, as modified.

Issued: March 23, 2015
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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