

**United States Department of Labor
Employees' Compensation Appeals Board**

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| T.G., Appellant |) | |
| |) | |
| and |) | Docket No. 15-1550 |
| |) | Issued: November 5, 2015 |
| DEPARTMENT OF THE ARMY, |) | |
| INSTALLATION MANAGEMENT |) | |
| COMMAND, Fort Belvoir, VA, Employer |) | |
| |) | |

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| <i>Appearances:</i> | <i>Case Submitted on the Record</i> |
| <i>Appellant, pro se</i> | |
| <i>Office of Solicitor, for the Director</i> | |

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 13, 2015 appellant filed a timely appeal from a May 27, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 met his burden of proof to establish a work-related injury on March 10, 2015.

FACTUAL HISTORY

On March 11, 2015 appellant, then a 49-year-old maintenance mechanic leader, filed a traumatic injury claim (Form CA-1) alleging that he sustained an injury on March 10, 2015 when

¹ 5 U.S.C. § 8101 *et seq.*

he was carrying a large piece of plexiglass through a small doorway and tripped and fell to the ground. He stated that he twisted his right ankle, hurt his lower back, and bumped his head.

Appellant stopped work on March 11, 2015 and received continuation of pay through April 24, 2015. The payment of a limited amount of medical expenses was administratively approved, but the merits of appellant's claim were not formally considered at that time. On April 20, 2015 appellant filed a claim for compensation (Form CA-7) for the period April 25 to May 2, 2015.²

In a March 10, 2015 report, Dr. Yolanda C. Haywood, an attending Board-certified emergency medicine physician, noted that appellant reported that he tripped and fell while holding a piece of plexiglass on that date. Appellant complained of head, neck, back, ankle, and left shoulder pain. Dr. Haywood indicated that appellant's computerized tomography (CT) scan and x-ray testing showed no evidence of internal injury. In the "diagnosis" portion of the report, she noted, "Accidental fall; acute back pain" and, in the "impression and plan" portion, she noted, "Acute back pain."

The findings of March 10, 2015 x-rays of appellant's left shoulder showed no evidence of acute fracture or dislocation; March 10, 2015 x-rays of appellant's left foot, left ankle, and lumbar spine showed no evidence of acute fracture.³ The findings of a March 10, 2015 CT scan of appellant's cervical spine revealed no evidence of acute displaced fracture. The test revealed degenerative changes of the cervical spine including severe right facet arthropathy at C3-4 and moderate right facet arthropathy at C4-5. A March 10, 2015 CT scan of appellant's brain showed a soft-tissue hematoma at the posterior vertex and no evidence of acute intracranial abnormality.

In a March 26, 2015 report, Dr. Mudit Sharma, an attending Board-certified neurosurgeon, noted that appellant had been struggling with neck and back pain since a fall at work three weeks prior. Appellant reported that the pain did not radiate into his arms or legs. Dr. Sharma noted that appellant had a prior history of neck and back pain and sought medical treatment which included pain management services. He indicated that on examination he exhibited paraspinal muscle spasms in his neck and lower back area. Dr. Sharma discussed appellant's cervical diagnostic testing and noted, "I would [like] to get better information on this patient with further imaging and work up. Specifically, I would like to get [a magnetic resonance imaging (MRI) scan] of the lumbar and cervical spine to get further treatment options for him."

In a March 26, 2015 note, Dr. Sharma noted, "Patient out of work from [March 17 to April 9, 2015]." In an April 8, 2015 note, Dr. Sharma indicated, "Out of work until surgery."

The findings of the April 7, 2015 MRI scan testing of appellant's cervical spine revealed degenerative disc disease at multiple levels.

² On May 18, 2015 appellant filed a Form CA-7 for the period May 3 to 16, 2015.

³ There was a lucent lesion along the medial talar dome that was compatible with an osteochondral defect.

In an April 23, 2015 letter, OWCP requested that appellant submit additional factual and medical evidence in support of his claim.

Appellant submitted an April 8, 2015 report in which Dr. Sharma reported findings of his examination on that date. Dr. Sharma noted that he advised appellant that there might be a contribution to his problems from the C3-4 facet joint and that he would first address the anterior portion of the C3-4 disc. He indicated that, if appellant continued to have neck pain, then he might have to address his condition posteriorly with a C3-4 lateral mass construct. Dr. Sharma indicated that a posterior lumbar decompression would be contemplated and noted, "He needs to remain out of work until he is scheduled and then in approximately four to six weeks after the cervical standpoint."

Appellant resubmitted a portion of Dr. Haywood's March 10, 2015 report and also submitted a March 10, 2015 report of the local fire and emergency medical services department in which an emergency medical technician described the care given to him on that date.

By decision dated May 27, 2015, OWCP denied appellant's claim because he did not submit sufficient medical evidence to establish that a work-related injury occurred on March 10, 2015. It explained that the reports submitted by him did not contain a rationalized medical opinion relating a specific diagnosed condition to that work incident.

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.⁴ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. 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.⁶ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

⁴ C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. § 10.5 (q), (ee); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

⁶ *Julie B. Hawkins*, 38 ECAB 393 (1987).

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

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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

On March 11, 2015 appellant filed a traumatic injury claim alleging injury to his right ankle, lower back, and head on March 10, 2015 when he was carrying a large piece of plexiglass, tripped, and fell to the ground. The Board finds that appellant did not submit sufficient medical evidence to establish that a work-related injury occurred on March 10, 2015. Although OWCP has accepted the occurrence of the March 10, 2015 incident, the record does not contain rationalized medical opinion relating a specific diagnosed condition to that work incident.

In a March 10, 2015 report, Dr. Haywood, an attending Board-certified emergency medicine physician, stated that appellant reported that he tripped and fell while holding a piece of plexiglass on that date. She indicated that appellant's CT scan and x-ray testing showed no evidence of internal injury. In the "diagnosis" portion of the report, Dr. Haywood noted, "Accidental fall; acute back pain" and, in the "impression and plan" portion, she noted, "Acute back pain." The submission of this report does not establish appellant's claim for a work-related March 10, 2015 injury. Dr. Haywood did not provide a clear rationalized medical opinion relating a specific diagnosed condition to that work incident. The Board has held that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹

In a March 26, 2015 report, Dr. Sharma, an attending Board-certified neurosurgeon, stated that appellant had been struggling with neck and back pain since a fall at work three weeks prior. He noted that appellant had a prior history of neck and back pain and sought medical treatment which included pain management services. Dr. Sharma indicated that he would like to obtain more diagnostic testing of appellant's cervical spine. In a March 26, 2015 note, he noted, "Patient out of work from [March 17 to April 9, 2015.]" The Board notes that, although Dr. Sharma suggested that appellant had disability for a period, he did not diagnose any specific condition related to the March 10, 2015 work incident or otherwise identify the March 10, 2015 work incident as necessitating the ostensible period of disability.

Late in an April 8, 2015 report, Dr. Sharma discussed possible plans of treatment at the cervical level of C3-4. He indicated that a posterior lumbar decompression would be contemplated at that level and stated, "[Appellant] needs to remain out of work until he is scheduled and then in approximately four to six weeks after the cervical standpoint." In an April 8, 2015 note, Dr. Sharma noted, "Out of work until surgery." He did not diagnose any condition related to the March 10, 2015 work incident. Dr. Sharma did not provide any opinion that the possible future cervical surgery or any period of disability was related to the March 10,

⁸ See *I.J.*, 59 ECAB 408 (2008); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁹ See *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

2015 work incident.¹⁰ For these reasons, the reports of Dr. Sharma are of limited probative value on the relevant issue of the present case.

On appeal, appellant alleged that he actually sustained specific neck and low back injuries at work on March 10, 2015, but he did not explain how the medical evidence of record supported this argument.

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 did not meet his burden of proof to establish a work-related injury on March 10, 2015.

ORDER

IT IS HEREBY ORDERED THAT the May 27, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 5, 2015
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹⁰ It is unclear from the record whether appellant actually underwent cervical surgery.