

FACTUAL HISTORY

On April 27, 2015 appellant, then a 40-year-old recreation specialist, filed a traumatic injury claim (Form CA-1) alleging that on February 13, 2015 she sustained a torn ligament in her left knee, pain in her lower back and left shoulder, and popped ribs on the left side as a result of moving tables in preparation for teaching a yoga class at work. She stopped work on March 31, 2015.

Appellant's supervisor signed the Form CA-1 on May 5, 2015 and advised that notice of injury was received on March 25, 2015. She controverted continuation of pay, contending that appellant had not filed the claim within 30 days of the claimed injury.

By letter dated May 15, 2015, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It requested that she submit factual evidence, including an explanation as to why she did not report her injury to the employing establishment until March 25, 2015. OWCP also requested that appellant submit medical evidence. It requested that the employing establishment submit medical evidence, if appellant had been treated at its medical facility.

In a June 8, 2015 statement, appellant claimed the injury occurred while she was collapsing and moving tables. She notified her supervisor and fellow yoga and tai chi instructor colleagues about her injury at a bi-monthly team meeting on February 25, 2015, 12 days after the incident. Appellant stated that her notification was completely ignored. She was not given any instructions as to how to file an injury report within her department. On March 25, 2015 appellant was unable to walk, drive, or move without utter agony. She discussed the extent of her injuries with her supervisor who responded that she should find another line of work. Appellant's supervisor advised her that she could not work from home and that she would not be paid for any work performed after March 25, 2015. Appellant stated that her request for permission to work from home was never addressed by the employing establishment's Office of the Director.

In an undated attending physician's report (Form CA-20), Dr. Katrina Babcock, a Board-certified physiatrist, advised that appellant had sustained left lateral collateral ligament strain/sprain sacroiliac joint pain, and left knee ligament tears that were caused or aggravated by the February 13, 2015 incident. She further advised that appellant was totally disabled from March 25, 2015 through the present.

In a June 10, 2015 decision, OWCP accepted appellant's claim for sprain of unspecified sites in the left knee and leg. In a separate decision on the same date, it denied her request for continuation of pay, finding that the injury was not reported on an appropriate form within 30 days of the injury and that she had not filed any documentation within the 30-day timeframe containing words of claim. The decision specified that it only related 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. 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 a 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

The Board finds that appellant is not entitled to continuation of pay.

On April 27, 2015 appellant filed a claim for a February 13, 2015 traumatic injury. Because she did not file her claim within 30 days from the date of injury, the time specified in sections 8118(a) and 8122(a)(2) of FECA, the Board finds that she is not entitled to continuation of pay. There is no provision in FECA for excusing a late filing. In addition, the record contains no evidence of an earlier written claim for a traumatic injury.

Appellant contended that she notified her supervisor about her injury in a timely manner on February 25, 2015. 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. Moreover, oral notice is not determinative of whether appellant is entitled to continuation of pay under section 8118(a).⁸ Appellant did not submit written notice of injury on

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).

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 J.M.*, Docket No. 09-1563 (issued February 26, 2010).

an approved form until April 27, 2015, more than 30 days after the February 13, 2015 injury, when she submitted a CA-1 form.⁹ Therefore, she is not eligible for continuation of pay.

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 her eligibility for continuation of pay.

ORDER

IT IS HEREBY ORDERED THAT the June 10, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 18, 2015
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

⁹ See *Robert E. Kimzey*, 40 ECAB 762 (1989); see also 20 C.F.R. §§ 10.205(a) and 10.210(a).