United States Department of Labor
Employees' Compensation Appeals Board

W.M., Appellant	)	
and	)	**Docket No. 16-0259**
	)	**Issued: April 22, 2016**
DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, Port Angeles, WA, 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 H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On November 24, 2015 appellant filed a timely appeal of a June 1, 2015 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 to consider the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he contracted food poisoning on August 5, 2014 causally related to an August 5, 2014 employment incident.

FACTUAL HISTORY

On August 12, 2014 appellant, then a 28-year-old forestry technician (fire), filed a traumatic injury claim (Form CA-1) alleging that he contracted food poisoning after consuming

[1] 5 U.S.C. § 8101 *et seq.*

spoiled food at work on August 5, 2015, causing abdominal pain, diarrhea, nausea, and vomiting. He stopped work on August 8, 2014 and returned to work on August 10, 2014. Appellant's supervisor noted on the claim form that the injury occurred in the performance of duty.

On August 6, 2014 appellant sought treatment at Kittitas Valley Healthcare in Ellensburg, Washington. In an August 6, 2014 report, Dr. Frank Cruz, Board-certified in family medicine, noted examining and treating appellant for an acute onset of vomiting, diarrhea, and abdominal cramps which began the night of August 5, 2014. He diagnosed vomiting, abdominal pain, and diarrhea, and prescribed medication. An August 6, 2014 report of Dr. John Henderson, a radiologist, noted that abdominal and pelvic computerized tomography (CT) scans ordered by Dr. Cruz showed no abnormalities.

By letter dated April 30, 2015, OWCP informed appellant of the deficiencies in his claim and provided him the opportunity to submit additional evidence, including a narrative medical report from a physician substantiating that the diagnosis provided was caused or aggravated by a work incident. Appellant was afforded 30 days to respond. No response was received.

By decision dated June 1, 2015, OWCP denied appellant's claim as the medical evidence of record failed to demonstrate that the claimed medical condition was causally related to the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of proof to establish 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 filed within the applicable time limitation; that an injury was sustained while 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.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[4]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.[5]

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical

[2] *Id*.

[3] *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *See Ellen L. Noble*, 55 ECAB 530 (2004).

[5] *T.H.*, 59 ECAB 388 (2008).

background, 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.[6]

ANALYSIS

It is undisputed that on August 5, 2014 appellant was performing forestry technician duties. It is also undisputed that he was diagnosed with vomiting, abdominal pain, and diarrhea. However, the Board finds that appellant has not submitted sufficient medical evidence to establish that his diagnosed conditions were caused or aggravated by the August 5, 2014 employment incident.

Appellant submitted an August 6, 2014 report from Dr. Cruz which noted that appellant's vomiting and diarrhea began the night of August 5, 2014. He diagnosed vomiting, abdominal pain, and diarrhea, and prescribed medication. Dr. Cruz' report, however, is insufficient to establish the claim as he did not relate appellant's diagnosed conditions to the accepted employment incident. He did not provide a history of the August 5, 2014 work incident, reflect knowledge of appellant's work duties that day, or specifically address how appellant's employment activities caused or aggravated the diagnosed medical conditions. The Board has held that medical reports that are based on an incomplete history[7] and do not offer an opinion on causal relationship supported by medical rationale are of diminished probative value.[8]

Dr. Henderson's August 6, 2015 CT scan report is also insufficient as it also contains no opinion as to how appellant's medical conditions would have been caused or aggravated by the alleged employment incident.[9]

An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment, nor the belief that his condition was caused, precipitated, or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.[10] Appellant failed to submit such evidence, and therefore he has not met his burden of proof to establish a claim for compensation.

[6] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[7] *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

[8] *A.D.* 58 ECAB 149 (2006) (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). *Conard Hightower*, 54 ECAB 796 (2003) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

[9] *Id.*

[10] *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

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 that he developed food poisoning causally related to an August 5, 2014 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the June 1, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 22, 2016
Washington, DC

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

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

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