

FACTUAL HISTORY

On July 24, 2015 appellant, then a 57-year-old laundry and dry cleaning equipment mechanic, filed a traumatic injury claim (Form CA-1) alleging that on July 8, 2015 he was bitten by bugs on his right hand, right arm, and neck at work. He stopped work on the date of injury and returned to work on July 20, 2015. The employing establishment received notice of the claimed injury on July 24, 2015 and noted that there was no medical evidence to support a work-related injury.

In an August 7, 2015 letter, OWCP advised appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

In a July 8, 2015 letter, Dr. Carmen S. Slavov, a Board-certified internist, requested that appellant be excused for three days. She advised that he may return to work on July 13, 2015 with no restrictions.

In a July 14, 2015 letter, Dr. Ava Khosraviani, a Board-certified dermatologist, found that appellant was not contagious. She, however, advised that he needed time off work until July 20, 2015 to allow his rash to heal.

A July 24, 2015 employing establishment incident report described the July 8, 2015 incident. The report documented that appellant was bitten by bugs at work. Appellant's supervisor related that appellant was initially diagnosed with shingles and prescribed medication which did not help his worsening condition. Appellant was later seen by a dermatologist who diagnosed bug bite. He was given three days off work to rest.

In a September 8, 2015 decision, OWCP accepted that the July 8, 2015 incident occurred as alleged. However, it denied appellant's claim as the medical evidence of record did not establish a causal relationship between his right hand, right arm, and neck conditions and the accepted employment incident.

On October 5, 2015 appellant requested reconsideration.

In an August 28, 2015 attending physician's report (Form CA-20), Dr. Payam Saadat, a Board-certified dermatologist, noted the date of injury as July 8, 2015. He provided a history of injury that appellant had an itchy red rash on his arm. Dr. Saadat diagnosed a probable bite reaction and checked boxes marked both "yes" and "no" that appellant's condition was caused or aggravated by the employment activity. He related that this was possible if there was a bed bug outbreak at work. Dr. Saadat reported that appellant could resume his regular work on July 14, 2015.

In a report of contact dated August 10, 2015, appellant related that on July 8, 2015 he advised management that he was not feeling well due to dizziness, coughing, and a runny nose. He was permitted to leave work to seek medical treatment. Appellant related that he was misdiagnosed with shingles and after the fourth day of not feeling better, a dermatologist diagnosed him with bug bites, gave him a shot, and prescribed medication.

In a January 21, 2016 decision, OWCP denied modification of the September 8, 2015 decision. It found that the evidence submitted did not provide sufficient rationale to establish a causal relationship between appellant's right hand, right arm, and neck conditions and the accepted July 8, 2015 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence² including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.³

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.⁴ There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.⁵

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁶ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.⁷ The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury caused by the accepted July 8, 2015 employment incident. Appellant failed to submit sufficient medical evidence to establish that he sustained right hand, right arm, and neck injuries causally related to the accepted employment incident.

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁵ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁶ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

⁷ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

Dr. Saadat's August 28, 2015 Form CA-20 report found that appellant had a "probable" bite reaction. The Board finds, however, that Dr. Saadat did not provide a definitive diagnosis. Further, his opinion is speculative regarding causal relationship. Dr. Saadat checked boxes marked both "yes" and "no" that appellant's condition was caused or aggravated by an employment activity. He related that this was possible if there was a bed bug outbreak at work. The Board has held that speculative and equivocal medical opinions regarding causal relationship have no probative value.⁹ Moreover, Dr. Saadat did not explain how appellant's condition was caused by the accepted July 8, 2015 employment incident. Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.¹⁰

The reports of Dr. Slavov and Dr. Khosraviani addressed appellant's work capacity. In his July 8, 2015 report, Dr. Slavov excused appellant from work for three days until July 13, 2015 when he could return to work with no restrictions. Dr. Khosraviani's July 14, 2015 report found that, while appellant was not contagious, he needed time off work, until July 20, 2015, to allow his rash to heal. Neither physician provided a firm diagnosis of a particular medical condition,¹¹ provided history of injury,¹² or offered a specific opinion as to whether the accepted July 8, 2015 employment incident caused or aggravated appellant's condition and resultant disability for work.¹³

The Board notes that OWCP procedures provide that in certain circumstances no medical report is required where all of the following criteria are satisfied, a claim may be accepted without a medical report: (1) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite); (2) The injury was witnessed or reported promptly, and no dispute exists as to the fact of injury; and (3) No time was lost from work due to disability.¹⁴ These procedures are inapplicable in this case since the July 8, 2015 incident was not reported until July 24, 2015 and because appellant did in fact lose time from work.

⁹ *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

¹⁰ *See R.C.*, Docket No. 15-315 (issued May 4, 2015); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

¹¹ *See Deborah L. Beatty*, 54 ECAB 340 (2003) (where the Board found that in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

¹² *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

¹³ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *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).

¹⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013).

Therefore, the Board finds that there is insufficient medical evidence of record to establish that appellant sustained right hand, right arm, and neck injuries causally related to the accepted July 8, 2015 employment incident.

On appeal, counsel contends that OWCP's January 21, 2016 decision is contrary to fact and law. For reasons stated above, the Board finds that the weight of the medical evidence does not establish that appellant sustained right hand, right arm, and neck injuries causally related to the accepted July 8, 2015 work incident.

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 failed to meet his burden of proof to establish right hand, right arm, and neck injuries causally related to the July 8, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the January 21, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 1, 2016
Washington, DC

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

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

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