United States Department of Labor
Employees' Compensation Appeals Board

E.S., Appellant	)	
and	)	**Docket No. 16-0267**
	)	**Issued: May 17, 2016**
DEPARTMENT OF THE ARMY, REDSTONE ARSENAL, Arsenal, AL, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On November 23, 2015 appellant filed a timely appeal from a November 10, 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 over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish a traumatic injury causally related to a November 15, 2012 employment incident.

FACTUAL HISTORY

On September 23, 2015 appellant, then a 61-year-old senior adviser, filed a traumatic injury claim (Form CA-1) alleging that on November 15, 2012 he sustained injuries to his neck

[1] 5 U.S.C. § 8101 *et seq.*

and left shoulder and subsequent post-traumatic stress disorder (PTSD) when he was involved in a motor vehicle accident. He retired due to disability on March 30, 2013.

By letter dated September 29, 2015, OWCP requested that appellant submit factual evidence to support that the November 15, 2012 incident occurred as alleged and medical evidence to establish that he sustained a diagnosed condition causally related to the alleged employment incident. Appellant was afforded 30 days to submit the requested evidence.

Appellant submitted an SF-50 notification of personnel action dated March 20, 2013, noting the expiration of his appointment and a February 24, 2013 SF-50 form noting that appellant's work was at an acceptable level of competence. He also provided various e-mails routed through Major Sam Southam, LTC Joseph Farquhar, and 1LT Ruffin Branch suggesting that appellant's shoulder radiculopathy was limiting his ability to accomplish his duties and recommended that appellant return stateside for additional treatment.

Dr. John M. Woodyear, Jr., a Board-certified family practitioner, related in a report dated December 10, 2012, that appellant was in the front passenger seat of a Chevy Suburban performing his duties as a senior adviser in Afghanistan when the vehicle collided with a barrier. He explained that appellant experienced extreme whiplash but due to the dangerous environment in which the crash occurred, he did not have an opportunity to immediately treat his injuries. Dr. Woodyear noted that the driver had to engage in evasive maneuvers when navigating away from the scene, which exacerbated appellant's injuries. He indicated that appellant was forced to return stateside because of pain and weakness in his left arm. Dr. Woodyear reported that appellant was being evaluated for what appeared to be a potentially disabling injury.

In various handwritten notes from the employing establishment health unit dated February 13, 2013, an unknown provider indicated that on November 15, 2012 appellant was involved in a motor vehicle accident. It was noted that appellant was diagnosed with PTSD.

Dr. Tara Chandrasekhar, a Board-certified psychiatrist specializing in child and adolescent psychiatry, related in a July 10, 2014 psychiatric evaluation that appellant had a self-reported history of major depressive disorder with psychotic features and PTSD. She described his history of ongoing psychiatric care while in military service. Dr. Chandrasekhar recounted that in 2012 appellant sustained injuries to his left shoulder and neck when his vehicle was hit by a rocket in Afghanistan. She related that, although his physical injuries were not significant, he began to have significant panic attacks, anxiety, crying spells, nightmares, and flashbacks. Dr. Chandrasekhar reviewed appellant's history and, after examination, reported that he had a history of major depressive disorder and likely PTSD with psychotic features. She explained that his symptoms were fairly well controlled when he took his medications regularly.

In a July 15, 2014 letter to appellant, Marlo Bryant-Cunningham, a legal administrative specialist with the Office of Personnel Management (OPM), informed appellant that the medical records demonstrated that he was disabled from his position as a senior adviser due to PTSD, chronic pain, cervicalgia, neuralgia, neuritis, and radiculitis.

By letter dated July 17, 2014, Dr. Chandrasekhar explained that she examined appellant for PTSD. She also noted that appellant continued to be affected by symptoms related to PTSD.

Appellant provided an August 13, 2014 letter from OPM regarding his approval for disability retirement and an October 9, 2013 letter from the Social Security Administration (SSA) informing him that he was approved to start disability benefits.

On October 12, 2015 appellant responded to OWCP's development letter. He explained that on November 15, 2012 he was riding as a gunner on the passenger side of a government-owned car to the North Atlantic Treaty Organization (NATO) airfield when the driver struck a concrete barrier. Appellant explained that after the incident he immediately experienced pain in his neck and shoulder and provided witnesses of the accident.

In a decision dated November 10, 2015, OWCP denied appellant's claim. It accepted that the November 15, 2012 incident occurred as alleged but denied his claim on the basis of insufficient medical evidence to establish that appellant sustained a diagnosed condition causally related to the accepted 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 by the weight of the reliable, probative, and substantial evidence[3] 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.[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.[5] 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.[6] Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.[7] An employee may establish that the employment incident occurred as alleged but fail to show that his disability or condition relates to the employment incident.[8]

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[2] 5 U.S.C. §§ 8101-8193.

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

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

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

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

[7] *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.[9] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.[10] The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[11]

ANALYSIS

Appellant alleged that on November 15, 2012 he sustained injuries to his neck and left shoulder when he was involved in a motor vehicle accident while working overseas. OWCP accepted that the November 15, 2012 incident occurred as alleged but denied his claim finding insufficient medical evidence to establish a diagnosed condition causally related to the accepted incident.

Appellant was examined by Dr. Woodyear, who recounted in a December 10, 2012 handwritten report that appellant was in the front passenger seat of a car when he worked as a senior advisor in Afghanistan for the employing establishment when his vehicle collided with a barrier. Dr. Woodyear explained that appellant experienced extreme whiplash but could not stop to treat his injuries due to the dangerous environment in which the crash occurred. He related that the driver had to engage in evasive maneuvers in order to leave the scene, which exacerbated appellant's injuries. Dr. Woodyear reported that appellant was evaluated for what appeared to be a potentially disabling injury. Although he accurately described the November 15, 2012 employment incident, Dr. Woodyear's report did not provide any findings on examination or contain a medical diagnosis. His opinion, therefore, fails to address whether appellant sustained a diagnosed condition causally related to the employment incident. Lacking a firm diagnosis and thorough medical rationale on the issue of causal relationship, Dr. Woodyear's report is insufficient to establish that appellant sustained an employment-related injury.[12]

The various handwritten employing establishment health unit records dated February 13, 2013 are likewise insufficient to establish causal relationship as the records were signed by an unknown provider. The Board has found that medical evidence lacking proper identification is of no probative medical value.[13] These reports, therefore, are insufficient to establish appellant's traumatic injury claim.

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[9] *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

[10] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

[11] *James Mack*, 43 ECAB 321 (1991).

[12] *See C.T.*, Docket No. 10-2354 (issued April 21, 2011).

[13] *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

In addition to neck and shoulder injuries, appellant has alleged that he has sustained PTSD as a result of the November 15, 2012 employment incident. OWCP has accepted that the employment incident occurred as alleged. Appellant explained that he was working as a gunner and seated in the passenger side of a government car on its way to the NATO airfield when the driver struck a concrete barrier. He informed Dr. Chandrasekhar in a July 10, 2014 report that he experienced significant panic attacks, anxiety, crying spells, nightmares, and flashbacks.

Appellant submitted reports from Dr. Chandrasekhar, a psychiatrist, in support of his claims of post-traumatic stress disorder. Dr. Chandrasekhar's reports are, however, of limited probative value in establishing causal relationship because they are based upon an inaccurate history of injury. She related that appellant sustained injuries to his left shoulder and neck in 2012 when his vehicle was hit by a rocket in Afghanistan. Dr. Chandrasekhar explained that appellant did not sustain significant physical injuries, but began to experience panic attacks, anxiety, crying spells, nightmares, and flashbacks. Appellant has never alleged that his vehicle was hit by a rocket in Afghanistan, but that his vehicle struck a barrier. Given the inaccurate history of injury, Dr. Chandrasekar's opinion regarding the cause of appellant's emotional conditions is of limited probative value.[14]

On appeal, appellant described how he sought medical attention at the nearest medical aid station and was sent *via* helicopter to a casualty center after the November 15, 2012 employment incident. He alleged that Dr. Woodyear made note of the traumatic injury. As noted above, however, Dr. Woodyear's December 10, 2012 report fails to establish appellant's claim.

Appellant further alleged that there was no other explanation, other than the traumatic injury, to explain onset and continuation of his disability. The Board has held, however, that the mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.[15] Because appellant has not provided such rationalized medical opinion in this case, the Board finds that he did not meet his burden of proof to establish his traumatic injury claim.

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 traumatic injury on November 15, 2012 causally related to his accepted employment incident.

[14] *See K.S.*, Docket No. 16-0404 (issued April 11, 2016).

[15] *Patricia J. Bolleter*, 40 ECAB 373 (1988).

ORDER

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

Issued: May 17, 2016
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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