

ISSUE

The issue is whether appellant met his burden of proof to establish an injury causally related to a December 16, 2014 work incident.

FACTUAL HISTORY

On January 6, 2015 appellant, then a 53-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging that on December 16, 2014 he sustained an injury to his right lower rib when he leaned into a hamper to pick up mail. He stopped work on December 19, 2014.

With his claim, appellant submitted a December 19, 2014 statement explaining that on December 16, 2014 he was leaning into a hamper to pick up the last parcel of mail for delivery when he hit his right lower rib on the top wall of the hamper. He noted that he initially thought it was a light injury but he was still having lower right rib pain several days later.

By letter dated January 15, 2015, OWCP advised appellant of the type of evidence needed to establish his claim and afforded him 30 days to submit responsive evidence. Appellant was also instructed to provide clarification as to whether he intended to file an occupational disease claim or a traumatic injury claim.

OWCP received an undated authorization for examination and/or treatment (Form CA-16) stamped and issued by the employing establishment. A discharge summary from Marin General Hospital was also submitted.

In a January 21, 2015 response to an OWCP development questionnaire, appellant advised that he intended to file a traumatic injury claim.

By decision dated March 5, 2015, OWCP denied appellant's claim because the evidence of record did not establish causal relationship.

In a December 19, 2014 report, Dr. Mark Bason-Mitchell, Board-certified in emergency medicine, advised that appellant complained of rib pain after he fell into a ditch, or something hard, at work. On examination he noted that appellant was in no acute distress, his abdomen was soft with no tenderness in the right upper quadrant, and his thorax was tender to palpation in the midaxillary line on the right. Dr. Bason-Mitchell indicated that a chest x-ray revealed no infiltrate, no effusion, and mediastinum within normal limits. He noted that an x-ray of the ribs showed no fracture, no dislocation, and alignment of the ribs within normal limits. Dr. Bason-Mitchell diagnosed rib contusion.

In a December 19, 2014 diagnostic report, Dr. Adam Nevitt, a Board-certified general and vascular surgeon, advised that a chest x-ray revealed no acute disease in the chest. He cited a fall as the reason for the examination.

In a December 19, 2014 doctor's first report of occupational injury or illness, Dr. Bason-Mitchell noted that appellant complained of rib pain and diagnosed rib contusion. He checked the box marked "yes" to indicate that his examination findings were consistent with appellant's

account of the injury and listed the date of injury as December 13, 2014. A December 19, 2014 nursing record was also submitted.

By letter dated March 9, 2015, appellant requested reconsideration. He reiterated that he hit his right lower rib when he was trying to reach a piece of mail in the bottom of a hamper. Appellant noted that immediately following the incident he felt pain and could not breathe. He advised that the pain continued to linger which caused him to lose sleep at night. Appellant indicated that he had reported the incident to his postmaster, who sent him to the emergency room. He contended that he was injured at work and diagnosed with a rib contusion.

In a March 13, 2015 statement, appellant again advised that he was injured on December 16, 2014 at work which was established by emergency room records. He indicated that he was receiving phone calls from the medical billing department regarding his visit and noted that he was unable to pay.

By decision dated June 5, 2015, OWCP denied modification of its prior decision.

By letter dated August 31, 2015, appellant again requested reconsideration. He noted that Dr. Bason-Mitchell's assertion that he may have fallen into a ditch was a mistake. Appellant indicated that Dr. Bason-Mitchell's report established causal relationship because he indicated that his injuries were consistent with the work-related injury as reported. He advised that he was submitting a hospital addendum that corrected the date of injury from December 13 to 16, 2014.

A September 3, 2015 addendum to the December 19, 2014 report from Dr. Bason-Mitchell advised that the initial dictation indicated that the injury occurred on December 13, 2015. However, he advised that the injury actually occurred on December 16. In an accompanying August 29, 2015 addendum to the December 19, 2014 report, Dr. Bason-Mitchell related that his original dictation noted that appellant may have fallen in a ditch. He advised that this was a mistake and that appellant actually "injured his rib with some type of item that was hard at work." Dr. Bason-Mitchell noted that an x-ray showed no signs of significant injury. He concluded that appellant's "injuries seemed to be completely consistent with a work-related injury as he reported."

By decision dated December 8, 2014, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,³ including that he or she is an "employee" within the meaning of FECA and that he or she filed his or her claim within the applicable time limitation.⁴ The employee must also

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁴ *R.C.*, 59 ECAB 427 (2008).

establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.⁵

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, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁶

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 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.⁷

ANALYSIS

Appellant claimed that he sustained a right rib injury on December 16, 2014 when he leaned into a hamper of mail. There is no dispute that the hamper incident occurred, as alleged. However, the medical evidence of record is insufficient to establish a medical condition causally related to the accepted work incident.

In his initial December 19, 2014 report, Dr. Bason-Mitchell, advised that appellant complained of rib pain after he fell into a ditch or something hard at work. He diagnosed rib contusion. In a December 19, 2014 doctor's first report of occupational injury or illness, Dr. Bason-Mitchell noted that appellant complained of rib pain and diagnosed rib contusion. He checked the box marked "yes" to indicate that his examination findings were consistent with appellant's account of the injury and listed the date of injury as December 13, 2014. In a September 3, 2015 addendum, Dr. Bason-Mitchell clarified that the injury actually occurred on December 16, 2014. In an August 29, 2015 addendum, he related that he had mistakenly indicated that appellant may have fallen in a ditch. Dr. Bason-Mitchell advised that this was a mistake and that appellant actually "injured his rib with some type of item that was hard at work." He noted that appellant's "injuries" were "completely consistent with a work-related injury as he reported." Although Dr. Bason-Mitchell supported causal relationship and clarified that injury occurred on December 16, 2014 and that appellant did not fall into a ditch, he does not indicate a familiarity with how the workplace incident occurred, only noting that appellant "injured his rib with some type of item that was hard." He did not address what this hard item was or how it caused a diagnosed medical condition. Causal relationship is a medical question that must be established by probative medical opinion from a physician.⁸ The physician must

⁵ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *T.H.*, 59 ECAB 388 (2008).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *Jennifer Atkerson*, 55 ECAB 317 (2004).

accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated his condition.⁹ Dr. Bason-Mitchell's reports are of limited probative value as he does not explain how leaning into a hamper at work caused or aggravated appellant's diagnosed condition.

Other medical reports of record are of limited probative value as they do not specifically address whether the December 16, 2014 work incident caused or contributed to a diagnosed medical condition.¹⁰ 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.

Consequently, appellant has submitted insufficient medical evidence to establish his claim.

The Board notes that the employing establishment issued a Form CA-16 authorization for medical treatment. Where an employing establishment properly executes a CA-16 form, which authorizes medical treatment as a result an employee's claim for an employment-related injury, the CA-16 form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim.¹¹ The period for which treatment is authorized by a CA-16 form is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.¹² In this case, it is unclear whether OWCP paid for the cost of appellant's examinations or otherwise addressed if the form was properly executed. On return of the case record, OWCP should further address the issue.¹³

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 met his burden of proof to establish an injury causally related to a December 16, 2014 work incident.

⁹ *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also S.T.*, Docket No. 11-237 (issued September 9, 2011).

¹⁰ *See Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹¹ *A.B.*, Docket No. 15-1002 (issued August 14, 2015); *Tracey P. Spillane*, 54 ECAB 608 (2003).

¹² 20 C.F.R. § 10.300(c).

¹³ *Tracey P. Spillane*, *supra* note 11.

ORDER

IT IS HEREBY ORDERED THAT the December 8, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 15, 2016
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