United States Department of Labor
Employees' Compensation Appeals Board

J.G., Appellant	)	
	)	
and	)	**Docket No. 17-1382**
	)	**Issued: October 18, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Charlotte, NC, Employer	)	
	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 5, 2017 appellant filed a timely appeal from a January 20, 2017[1] merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.[3]

[1] On April 4, 2017 OWCP sent a second copy of the January 20, 2017 decision to appellant.

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that appellant submitted new evidence with his appeal to the Board. However, the Board may only review evidence that was in the record at the time OWCP issued its final decision. Thus, the Board has no jurisdiction to review this evidence on this appeal. *See* 20 C.F.R. §§ 501.2(c)(1); *M.B.*, Docket No. 09-0176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

ISSUE

The issue is whether appellant met his burden of proof to establish a traumatic injury causally related to the accepted November 18, 2016 employment incident.

FACTUAL HISTORY

On November 19, 2016 appellant, then an 18-year-old city carrier associate, filed a traumatic injury claim (Form CA-1) alleging that he sustained right thumb and right upper shoulder injuries when his postal truck was hit by an automobile running a stop sign on November 18, 2016. He stopped work on that date of the alleged injury.

In support of his claim, appellant submitted a narrative statement describing the automobile accident. He also submitted return to work notes from Dr. Achu Mofor, a treating Board-certified family medicine practitioner.

Dr. Mofor, in November 22 and 29, 2016 return to work notes, indicated that appellant had been under his care and could return to work on December 6, 2016.

On December 5, 2016 Dr. Mofor noted that appellant was under his care for right shoulder spasm/pain and right thumb pain. He requested that appellant be excused from work from November 22 to December 5, 2016 and noted that he could return on December 6, 2016.

By letter dated December 13, 2016, OWCP informed appellant that the evidence of record was insufficient to establish his claim. Appellant was advised as to the medical and factual evidence required and was afforded 30 days to provide the requested information. He did not submit any further medical evidence to the record.

By decision dated January 20, 2017, OWCP found that the employment incident occurred, as alleged, but that there was no medical evidence of record establishing a diagnosed medical condition causally related to the accepted November 18, 2016 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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.[5] 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.[6]

[4] *Supra* note 2.

[5] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[6] *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.[7] 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.[8] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[9]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[10] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the compensable employment factors.[11] 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.[12]

ANALYSIS

OWCP accepted that appellant was involved in an automobile accident on November 18, 2016 while in the performance of duty. It, however, denied his claim on the basis that he failed to establish that he sustained an injury as a result of the accepted employment incident.

The Board finds that appellant failed to establish an injury causally related to the accepted November 18, 2016 employment incident.

In support of his claim, appellant submitted notes dated November 22 and 29, and December 5, 2016 from Dr. Mofor requesting that appellant be excused from work. Dr. Mofor reported that appellant was being treated for right shoulder spasm/pain and right thumb pain and that appellant had been involved in a motor vehicle accident. These notes lack a diagnosis and medical rationale explaining the employment relationship. The Board has held that pain is generally considered a symptom and not a firm medical diagnosis.[13] Similarly, spasm has been found to be a symptom, not a diagnosis.[14] Furthermore, these notes lack any medical explanation

[7] *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 5.

[8] *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

[9] *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 5.

[10] *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

[11] *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

[12] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[13] *P.S.*, Docket No. 12-1601 (issued January 2, 2013); *J.W.*, Docket No. 11-1475 (issued December 7, 2011); *Robert Broome*, 55 ECAB 339 (2004).

[14] *J.C.*, Docket No. 14-1002 (issued December 19, 2014).

relative to causal relationship. The mere recitation of patient history does not suffice for purposes of establishing causal relationship between a diagnosed condition and the employment incident.[15] Thus, these return to work notes from Dr. Mofor are insufficient to support appellant's claim.

To establish a firm medical diagnosis and causal relationship, appellant must submit a physician's report that addresses the November 18, 2016 employment incident and how it caused or aggravated a diagnosed condition.[16] OWCP advised him that it was his responsibility to provide a comprehensive medical report which described his symptoms, test results, diagnosis, treatment, and the physician's opinion, with medical reasons, on the cause of the diagnosed condition.[17] Appellant failed to submit appropriate medical documentation in response to OWCP's request.

As there is no probative, rationalized medical evidence establishing an injury caused or aggravated by the accepted November 18, 2016 employment incident, appellant has not met his burden of proof.[18]

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 a traumatic injury causally related to the accepted November 18, 2016 employment incident.

[15] *See R.T.*, Docket No. 10-2059 (issued June 21, 2011).

[16] *Michael S. Mina*, *supra* note 11; *Michael E. Smith*, 50 ECAB 313 (1999).

[17] *M.A.*, Docket No. 17-0122 (issued May 2, 2017).

[18] *Supra* note 12.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 20, 2017 is affirmed.

Issued: October 18, 2017
Washington, DC

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

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

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