United States Department of Labor
Employees' Compensation Appeals Board

R.J., Appellant	)	
and	)	**Docket No. 17-1384**
	)	**Issued: October 25, 2017**
DEPARTMENT OF THE ARMY, SUSTAINMENT COMMAND, Ansbach, Germany, 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 June 6, 2017 appellant filed a timely appeal from a May 3, 2017 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 that a right eye injury causally related to the accepted February 10, 2017 employment incident.

FACTUAL HISTORY

On March 9, 2017 appellant, then a 58-year-old material handler, filed a traumatic injury claim (Form CA-1) alleging that on February 10, 2017 he sustained loss of vision in his right eye

[1] 5 U.S.C. § 8101 *et seq.*

when he was moving a storage cabinet which came off the pallet jack and it pinned him to the wall, causing him to hit his head.[2] He stopped work and first received medical care on the date of injury. Appellant returned to work on February 27, 2017. In support of his claim, he submitted various medical bills.

By letter dated March 21, 2017, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence needed and was afforded 30 days to respond.[3]

In a February 24, 2017 medical report, Dr. G. Gitsioudis, a treating physician, reported that appellant had his heart checked *via* a magnetic resonance imaging scan.[4] He reported findings of normal-sized left hypertrophied ventricle with a slightly reduced systolic pump function without any regional heart wall abnormalities, normal-sized left and right atrium, and normal-sized residual lung volume. Dr. Gitsioudis further noted detection of atypical late-gadolinium enhancement basal inferolateral. He found no indication for an exercised-induced coronary insufficiency and concluded that the medical findings were in accordance with appellant's age and corresponded to a hypertensive cardiomyopathy.

In a March 21, 2017 medical report, Dr. Med A. Bergua, a treating physician, reported that appellant presented for a follow-up examination of primary optic atrophy in the right eye from a February 17, 2017 central retinal arterial occlusion. He noted no signs of neovascularizations when the intraocular tension was regulated. As such, Dr. Bergua could not offer measures which would improve the visual acuity apart from the regular ophthalmological controls.[5]

By decision dated May 3, 2017, OWCP denied appellant's claim finding that the evidence of record failed to establish that his diagnosed eye condition was causally related to the accepted February 10, 2017 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[6] 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 or specific condition for which compensation is claimed are causally related to the

[2] On the date of injury appellant was employed at an employing establishment facility in Germany.

[3] OWCP notified appellant that any medical reports submitted should be translated to English.

[4] The medical credentials of the physicians in Germany could not be verified.

[5] The Board notes that the original medical reports were dictated in German and translated to English.

[6] *Supra* note 1.

employment injury.[7] 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.[8]

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[9] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence supporting such causal relationship.[10] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of 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

OWCP accepted that the February 10, 2017 employment incident occurred as alleged. The issue, therefore, is whether the medical evidence of record is sufficient to establish that the employment incident caused a right eye injury.

The Board finds that appellant had not submitted sufficient medical evidence to support that his right eye condition was causally related to the accepted February 10, 2017 employment incident.[12]

Dr. Gitsioudis' February 24, 2017 medical report is insufficient to establish appellant's claims as the findings within the report are related to treatment and examination for a cardiac

[7] *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

[8] *Michael E. Smith*, 50 ECAB 313 (1999).

[9] *Elaine Pendleton*, *supra* note 7.

[10] *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

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

[12] *See Robert Broome*, 55 ECAB 339 (2004).

condition. As appellant has alleged a work-related right eye injury, this report is of no probative value pertaining to this February 10, 2017 employment incident.[13]

The only other medical report submitted was Dr. Bergua's March 21, 2017 report. While Dr. Bergua provided a firm medical diagnosis of primary optic atrophy in the right eye, he failed to discuss appellant's medical history or provide any opinion on the cause of injury. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.[14] Dr. Bergua made no mention of the February 10, 2017 employment incident and failed to provide any details pertaining to the incident alleged to have caused appellant's injury. Without mention of the February 10, 2017 employment incident, any findings made could not be related to his claim to establish causal relationship.[15] The Board has held that a physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to the diagnosed medical condition.[16] As Dr. Bergua failed to relate appellant's right eye injury to the February 10, 2017 employment incident, his opinion is of limited probative value and insufficient to meet appellant's burden of proof.[17]

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.[18] Appellant's honest belief that the February 10, 2017 employment incident caused his medical injury, however, sincerely held, does not constitute the medical evidence necessary to establish causal relationship.[19]

In the instant case, the record lacks rationalized medical evidence establishing causal relationship between the February 10, 2017 employment incident and his diagnosed right eye primary optic atrophy. Thus, appellant has failed to meet his burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 and 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a right eye injury causally related to the February 10, 2017 employment incident, as alleged.

[13] *J.S.*, Docket No. 15-1618 (issued March 7, 2016).

[14] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[15] *S.Y.*, Docket No. 11-1816 (issued March 16, 2012).

[16] *John W. Montoya*, 54 ECAB 306 (2003).

[17] *Supra* note 15.

[18] *D.D.*, 57 ECAB 734 (2006).

[19] *See J.S.*, Docket No. 17-0507 (issued August 11, 2017).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated May 3, 2017 is affirmed.

Issued: October 25, 2017
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