

**United States Department of Labor
Employees' Compensation Appeals Board**

C.O., Appellant)	
)	
and)	Docket No. 18-0666
)	Issued: August 24, 2018
U.S. POSTAL SERVICE, POST OFFICE,)	
Minneapolis, MN, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 8, 2018 appellant filed a timely appeal from a January 12, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an injury causally related to the accepted factors of his federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The record provided the Board includes evidence received after OWCP issued its January 12, 2018 decision. The Board's jurisdiction is limited to the evidence that was in the case record at the time of OWCP's final decision. Therefore, the Board is precluded from reviewing this additional evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On November 4, 2017 appellant, a 46-year-old sales and services associate, filed an occupational disease claim (Form CA-2) alleging that he injured his left shoulder while at work due to repetitive lifting and throwing boxes. He described the nature of the condition as pain in his shoulder. Appellant identified November 1, 2016 as the date he first became aware of his condition, as well as the date he first realized it was caused or aggravated by his federal employment.

In a November 27, 2017 development letter, OWCP acknowledged receipt of appellant's claim, but noted that it had not received any other documentation with his claim form. It advised him of the need for medical evidence in support of his claim. OWCP also provided appellant a factual questionnaire to complete and return. It afforded him 30 days to submit the requested medical evidence and factual information.

In a letter dated January 8, 2018, an employing establishment representative controverted appellant's occupational disease claim noting that no medical diagnosis had been provided to date and a medical connection between injury and condition had not been established.

On January 11, 2018 OWCP received the signature page from its November 27, 2017 factual questionnaire, which appellant signed and dated December 1, 2017. However, appellant did not provide a narrative response to the questions OWCP posed regarding his claimed occupational exposure. OWCP did not receive any additional factual information or medical evidence within the allotted timeframe.

By decision dated January 12, 2018, OWCP denied appellant's occupational disease claim. Although it found that the evidence supported that the injury and/or events occurred as described it denied appellant's claim because the medical component of fact of injury had not been met. OWCP specifically found that appellant did not submit any medical evidence containing a diagnosis in connection with the injury and/or events. It further indicated that it had not received any medical evidence in appellant's case.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence⁴ 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.⁵

³ See *supra* note 1.

⁴ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁵ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

OWCP regulations define an occupational illness as a condition produced by the work environment over a period longer than a single workday or shift.⁶ To establish an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁷

ANALYSIS

Appellant alleged that he developed left shoulder pain as a result of "repetitive lifting and throwing boxes." OWCP accepted that the injury and/or events occurred as described, but denied the claim because appellant failed to establish the medical component of fact of injury. Appellant did not submit any medical evidence in support of his occupational disease claim. The Board finds that appellant has not met his burden of proof to establish his claim.

To establish the medical component of fact of injury, medical evidence is required that establishes the presence or existence of the disease or condition for which compensation is claimed.⁸ Appellant has not submitted any medical evidence in support of his occupational disease claim. There is no medical evidence in the record. Consequently, appellant failed to meet his burden of proof to establish a medical diagnosis in connection with his accepted occupational exposure.⁹ As appellant has not submitted medical evidence containing a diagnosis of a left shoulder condition, he has not establish the medical component of fact of injury.

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. §§ 10.606 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury causally related to the accepted factors of his federal employment.

⁶ 20 C.F.R. § 10.5(ee).

⁷ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁸ *Victor J. Woodhams*, 41 ECAB 345 (1999).

⁹ *See J.K.*, Docket No. 16-1850 (issued January 9, 2017).

ORDER

IT IS HEREBY ORDERED THAT the January 12, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 24, 2018
Washington, DC

Christopher J. Godfrey, 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