United States Department of Labor
Employees' Compensation Appeals Board

J.L., Appellant	)	
and	)	**Docket No. 17-1712**
	)	**Issued: February 12, 2018**
U.S. POSTAL SERVICE, POST OFFICE, Pittsburgh, PA, 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
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On August 4, 2017 appellant filed a timely appeal from a February 7, 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 her burden of proof to establish a traumatic injury in the performance of duty on June 8, 2016.

FACTUAL HISTORY

On June 9, 2016 appellant, then a 51-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on June 8, 2016 she sustained a left upper arm contusion/bruise. She reported that she stepped up onto a pallet and bent into a Gaylord to pick up a placard. When she

[1] 5 U.S.C. § 8101 *et seq.*

stood up after bending, appellant felt light headed and stepped back off of the pallet causing her to fall to the floor and strike her left elbow. She notified her supervisor, stopped work, and first received medical on the day of injury. On the reverse side of the claim form appellant's supervisor reported that the injury occurred in the performance of duty. He checked the box marked "yes," indicating that his knowledge of the facts about the injury agreed with appellant's statements.[2]

In a June 9, 2016 employee accident statement, appellant reported that on June 8, 2016 she was setting up when she tripped and fell backward between a pallet and the concrete, injuring her left elbow. She reported that she dropped a placard in the Gaylord and bent over to retrieve the placard, but she could not reach it. Appellant then felt she needed to get up due to the blood rushing to her head and stepped down off the pallet, causing her to trip, fall backward, and land on her left elbow.

In a June 20, 2016 statement, appellant's supervisor stated that appellant reported that she had bent into a Gaylord to pick up a placard. When she stood up, appellant felt light headed and fell to the floor, hitting her elbow. Appellant's supervisor challenged the claim arguing that light headedness was not an employment-related injury and she did not strike any type of postal equipment on the way down. He further noted that the medical documentation provided no opinion on causal relationship.

A June 9, 2016 UPMC Passavant Cranberry Emergency Department note excused appellant from work through June 16, 2016. Appellant also submitted June 15, 2016 prescription notes from Dr. James T. Campagna, Board-certified in family practice.

By letter dated June 27, 2016, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the type of factual and medical evidence needed to establish her claim and she was asked to respond within 30 days. OWCP informed her that the evidence of record was insufficient to establish that she actually experienced the incident or employment factor alleged to have caused the injury, there was no diagnosis of a medical condition, nor was there a physician's opinion as to the cause of her injury. It provided a questionnaire for completion and requested that appellant submit a response in order to substantiate the factual basis of her claim. Appellant was afforded 30 days to provide the requested information. She did not respond.

In another letter dated June 27, 2016, OWCP requested the employing establishment provide additional information pertaining to the circumstances surrounding appellant's alleged June 8, 2016 traumatic injury claim.

[2] Appellant has other traumatic injury claims with the following dates of injury: October 24, 2003 assigned OWCP File No. xxxxxx122; February 10, 2011 assigned OWCP File No. xxxxxx744; July 7, 2011 assigned OWCP File No. xxxxxx996; and January 12, 2013 assigned OWCP File No. xxxxxx955. The record also reveals two other occupational disease claims with the following dates of injury: January 11, 2008 assigned OWCP File No. xxxxxx212 and November 1, 2008 assigned OWCP File No. xxxxxx101. The record previously before the Board contains no other information regarding appellant's prior claims.

In support of her claim, appellant submitted a June 15, 2016 Duty Status Report (Form CA-17) from Dr. Campagna. Dr. Campagna reported that appellant fell backwards on concrete and landed on her left elbow on June 8, 2016. He restricted her from returning to work and diagnosed left elbow contusion, noting clinical findings of left elbow/shoulder tendinitis.

In a June 23, 2016 medical report, Dr. George S. Kappakas, a Board-certified orthopedic surgeon, reported that appellant complained of pain and discomfort in her left elbow and shoulder area which she injured a few weeks ago. Appellant reported working as a mail handler which involved employment duties of sorting and lifting. He noted that she tripped, fell backwards, and landed on her left elbow which jammed her left shoulder. An x-ray of appellant's left elbow and shoulder was performed at UPMC Passavant which showed no evidence of any bony injury. Dr. Kappakas diagnosed left elbow and shoulder tendinitis.

In a July 20, 2016 statement, a coworker reported that she was working in her bid (manual section) on June 8, 2016 when she witnessed appellant fall. Appellant was placing placards on Gaylords (boxes) when she lost her balance and fell. The coworker stated that she went over to see if appellant was okay and appellant reported injuring her arm, at which point she advised her to notify her supervisor.

By decision dated August 1, 2016, OWCP denied appellant's claim finding that the evidence of record failed to establish that the June 8, 2016 employment incident occurred as alleged.

On September 1, 2016 appellant requested review of the written record before an OWCP hearing representative.

In a June 15, 2016 encounter report, Dr. Campagna reported that appellant fell at work on June 9, 2016 and landed on her left elbow. Appellant sought treatment at UPMC Passavant where x-rays revealed negative findings.

In a June 23, 2016 work status report, Dr. Kappakas diagnosed left elbow/shoulder tendinitis and restricted appellant to limited duty.

By decision dated February 7, 2017, an OWCP hearing representative affirmed the August 1, 2016 decision finding that the evidence of record failed to establish that the June 8, 2016 employment incident occurred as alleged. He noted that appellant failed to respond to OWCP's development letter to indicate whether she had a medical condition which may have contributed to her fall. In the absence of this information, it could not be determined whether her fall was an idiopathic or an unexplained fall.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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

[3] *Supra* note 1.

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 is causally related to the employment injury.[4] 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.[5]

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.[6] The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

When an employee claims to have sustained an injury in the performance of duty he or she must submit sufficient evidence to establish a specific event, incident, or exposure occurring at the time, place, and in the manner alleged. The employee must also establish that such event, incident, or exposure caused an injury.[7] Once an employee establishes an injury in the performance of duty, he or she has the burden of proof to establish that any subsequent medical condition or disability for work, for which compensation is claimed is causally related to the accepted injury.[8]

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and her subsequent course of action. In determining whether a case has been established, such circumstances as late notification of injury, lack of confirmation of injury, and failure to obtain medical treatment may, if otherwise unexplained, cast substantial doubt on the employee's statements. The employee has not met her burden of proof when there are such inconsistencies in the evidence so as to cast serious doubt on the validity of the claim.[9]

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of FECA.[10] Such an injury does not arise out of a risk

[4] *Gary J. Watling*, 52 ECAB 278 (2001).

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

[6] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] *See generally John J. Carlone*, 41 ECAB 354 (1989); *see also* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. § 10.5(q) and (ee) (1999) (occupational disease or illness and traumatic injury defined). *See Victor J. Woodhams*, 41 ECAB 345 (1989) regarding a claimant's burden of proof in an occupational disease claim.

[8] *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

[9] *Betty J. Smith*, 54 ECAB 174 (2002).

[10] *See Carol A. Lyles*, 57 ECAB 265 (2005).

connected with the employment and is, therefore, not compensable. The Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.

This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.[11] If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.[12]

ANALYSIS

The Board finds that appellant has established that her June 8, 2016 fall occurred in the performance of duty as alleged.[13]

In her June 9, 2016 Form CA-1, appellant explained that she sustained a left elbow injury on June 8, 2016 when she stepped up onto a Gaylord and bent into a Gaylord to pick up a placard. She reported that she felt light headed when she stood up and stepped back off of the pallet, causing her to fall to the floor and strike her left elbow. Appellant's June 9, 2016 employee accident statement provided further detail regarding the incident. She explained that she dropped a placard in the Gaylord and bent over to retrieve it. Appellant then felt blood rushing to her head and decided she needed to get up. As she stepped down off of the pallet, she tripped, fell backwards, and landed on her left elbow.

The Board finds that appellant's statements have sufficiently established that the June 8, 2016 employment incident occurred as alleged.[14] Appellant provided a singular account of the mechanism of injury. She immediately notified her supervisor and sought emergency medical treatment on June 9, 2016, the date following her injury. Not only have her statements been consistent, but appellant provided further support regarding her allegations through her coworker's July 20, 2016 witness statement. The medical reports of record also substantiate appellant's claim which note a June 8, 2016 injury after she fell and landed on her elbow. While appellant's supervisor controverted the claim on June 20, 2016, his statement accepts as factual appellant's general description of the June 8, 2016 employment incident. Moreover, he indicated on the Form CA-1 that appellant was in the performance of duty and his knowledge of the facts about the injury agreed with her statements. While the employing establishment may controvert whether this incident caused appellant her injury, it cannot deny the alleged facts to establish that the incident did not occur at the time, place, and in the manner alleged. The Board has held that a claimant's statement that an injury occurred at a given time, place, and in a given manner is of

[11] *Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

[12] *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

[13] *C.L.*, Docket No. 13-0917 (issued September 4, 2013).

[14] *Id.*

great probative value and will stand unless refuted by strong or persuasive evidence.[15] Thus, the Board finds that given the above-referenced evidence, appellant has alleged with specificity that the June 8, 2016 incident occurred as alleged.[16]

The Board has held that an injury resulting from an idiopathic condition is not compensable. The fact that the cause of a particular fall cannot be ascertained, or that the reason it occurred cannot be explained, does not however establish that it was due to an idiopathic condition. If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted the fall and caused the fall.[17]

The Board finds that the case record does not contain any medical evidence which would establish that appellant's fall was idiopathic, *i.e.*, due to a personal, nonoccupational pathology.[18] Appellant explained that after bending over to pick up the placard, she felt blood rush to her head. When she stood up she tripped, fell backwards, and landed on her left elbow. Appellant's treating physicians noted no prior injury which would explain her light headedness after bending over, nor is there any medical evidence to establish that a preexisting condition caused her fall.[19] OWCP has the burden of proof to submit medical evidence showing the existence of a personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature. If the record does not establish that a particular fall was due to an idiopathic condition, it must be considered merely an unexplained fall, which is covered under FECA.[20] The evidence of record herein does not establish that appellant's fall was a result of an idiopathic condition.[21] Based on the medical evidence of record, the Board finds that appellant's fall on June 8, 2016 occurred in the performance of duty.[22]

Given that appellant has established that the June 8, 2016 employment incident occurred as alleged, the question becomes whether this incident caused an injury. As OWCP denied appellant's claim based on a finding that she had not established the factual element of the claim, it did not develop or evaluate the medical evidence of record. Thus, the Board will set aside OWCP's February 7, 2017 decision and remand the case for further development of the medical

[15] *Thelma Rogers*, 42 ECAB 866, 869-70 (1991).

[16] *See Willie J. Clements*, 43 ECAB 244 (1991).

[17] *P.W.*, Docket No. 13-0170 (issued March 15, 2013).

[18] *H.B.*, Docket No. 12-0840 (issued November 20, 2012).

[19] *G.B.*, Docket No. 10-2155 (issued June 1, 2011).

[20] *See M.M.*, Docket No. 08-1510 (issued November 25, 2008); *Jennifer Atkerson*, 55 ECAB 317 (2004).

[21] *L.S.*, Docket No. 16-0036 (issued May 23, 2016).

[22] *Steven S. Saleh*, 55 ECAB 169 (2003).

evidence.[23] After further development, as deemed necessary, OWCP shall issue a *de novo* decision on appellant's traumatic injury claim.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the February 7, 2017 Office of Workers' Compensation Programs' decision is set aside and the case is remanded for further proceedings consistent with this opinion.

Issued: February 12, 2018
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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

[23] *T.F.*, Docket No. 12-439 (issued August 20, 2012).