

mid-back area after unloading and reloading firefighting equipment from one vehicle to another. On the reverse side of the claim form, appellant's supervisor noted that there were inconsistencies in appellant's description of what occurred, and that there was no medical evidence to support continuation of pay.

In an e-mail dated August 9, 2017, another supervisor advised that he had spoken to a coworker regarding appellant's claim. The coworker indicated that appellant had mentioned to him on the following Monday that his back was stiff, and that he thought he had slept on it wrong.

By development letter dated August 16, 2017, OWCP advised appellant that the evidence of record was insufficient to establish his claim. It noted that it had not received any medical evidence in support of his claim. OWCP also requested additional factual information regarding the alleged injury. It afforded appellant 30 days to submit the requested information and medical evidence.

In a narrative statement dated September 1, 2017, appellant recalled that, on August 6, 2017, his supervisor directed him and his crew to unload their fire engine of all its equipment, which required removing pieces of heavy equipment from the vehicle and placing them on the ground; an activity involving lifting, twisting, and turning. Shortly after completing the task, appellant's mid-back began to tighten up, and he began experiencing pain and soreness. By that evening, the pain had increased considerably, and appellant notified his supervisor he might fill out a Form CA-1 if his back pain did not subside. That night, while sleeping, appellant kept awakening due to the pain and stiffness. The next morning, August 7, 2017, his back felt slightly better after he got up and moved around. However, through the course of that day's work shift, his back began to worsen again. That night appellant slept in a different bed than his own, and he awoke multiple times in pain. The following morning, August 8, 2017, he was in severe pain and was unable to move or sit properly without experiencing back pain. Appellant notified the on-duty shift supervisor that his pain had not subsided, but rather had gotten a lot worse and that he was unable to finish his shift. Appellant then completed a Form CA-1 and left to see his physician. He explained that, from the time of the injury until he left, he remained on duty the entire time. During that period appellant went on multiple emergencies while wearing full personal protective equipment (PPE) weighing 70 pounds. Appellant also stated that he slept in different beds, both of which contributed to the pain and tightness in his back. He noted that he had not sustained any other injury or disability during this time or before the August 6, 2017 employment incident.

In a report dated August 8, 2017, Dr. Syeda Farheen Ali, an internist, assessed appellant with upper back pain. She noted that on August 6, 2017, appellant felt his mid-back tighten up, and that when he awoke, he could barely move. Appellant noted that he did not recall injuring it, but that earlier in the day he was loading trucks with heavy equipment. Dr. Ali reported that he did feel a back spasm at that time, but did not pay attention to it. She noted tenderness and spasm of the thoracic back on examination.

In an August 23, 2017 attending physician's report (Form CA-20), Dr. Ali assessed appellant with spasm of the upper (thoracic) back and opined that his condition was caused by unloading trucks while on duty. She indicated that he was totally disabled from work for the period August 8 through 15, 2017, but could resume regular work effective August 16, 2017. In an

August 23, 2017 work capacity evaluation (Form OWCP-5c), Dr. Ali noted that appellant was capable of performing his usual job without restrictions.

By decision dated September 20, 2017, OWCP denied appellant's claim. It found that although the evidence of record established that the employment incident occurred as alleged, it was insufficient to establish a diagnosed medical condition. OWCP explained that "pain" was a symptom, not a diagnosis.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability claimed is causally related to the employment injury.³

To determine if an employee sustained a traumatic 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 that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁴ The second component is whether the employment incident caused a personal injury.⁵ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁷ 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.⁸ 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

² *Id.*

³ 20 C.F.R. § 10.115(e), (f); *J.O.*, Docket No. 18-0057 (issued May 29, 2018); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ See *J.O.*, *id.*; *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ See *J.O.*, *id.*; *John J. Carlone*, 41 ECAB 354 (1989).

⁶ See *J.O.*, *id.*; *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

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

⁸ *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006)

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.⁹

ANALYSIS

Appellant claimed to have injured his mid-back on August 6, 2017 while unloading and reloading fire equipment from one vehicle to another in the performance of duty. By decision dated September 20, 2017, OWCP denied his traumatic injury claim, finding that he had not submitted evidence of a diagnosed medical condition in connection with the August 6, 2017 employment incident.

The Board finds that appellant has not submitted medical evidence from a physician containing a medical diagnosis in connection with the August 6, 2017 employment incident.¹⁰ Appellant submitted reports from Dr. Ali dated August 8 and 23, 2017, containing assessments of upper back pain and spasm of the upper back, respectively.

The Board has held that pain and spasm are descriptions of symptoms and are not, in themselves, considered firm medical diagnoses.¹¹ Dr. Ali's descriptions of appellant's upper back pain and spasm are, therefore, insufficient to establish a firm medical diagnosis in connection with the accepted employment incident.¹² As such, the Board finds that appellant has not submitted sufficient medical evidence to establish his claim for compensation.

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 August 6, 2017 employment incident.

⁹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁰ *See L.F.*, Docket No. 17-1511 (issued November 28, 2017); *J.P.*, Docket No. 14-0087 (issued March 14, 2014).

¹¹ *See B.P.*, Docket No. 12-1345 (issued November 13, 2012) (regarding pain); *C.F.*, Docket No. 08-1102 (issued October 10, 2008) (regarding pain); *J.S.*, Docket No. 07-0881 (issued August 1, 2007) (regarding spasm).

¹² Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

ORDER

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

Issued: July 12, 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