United States Department of Labor
Employees' Compensation Appeals Board

P.L., Appellant	)	
and	)	**Docket No. 18-0125**
	)	**Issued: May 17, 2018**
DEPARTMENT OF THE AIR FORCE, EDWARDS AIR FORCE BASE, CA, 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 October 23, 2017 appellant filed a timely appeal from a May 11, 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 to consider the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury causally related to the accepted March 18, 2017 employment incident.

FACTUAL HISTORY

On March 27, 2017 appellant, then a 51-year-old aircraft mechanic, filed a traumatic injury claim (Form CA-1) alleging that on March 18, 2017 he sustained a back sprain or strain resulting from lifting a manifold from a crate with a coworker. He explained that, after the manifold cleared

[1] 5 U.S.C. § 8101 *et seq.*

the crate, his coworker lowered it to the ground without notifying him and that the weight forced his back to bend. Appellant stopped work on March 18, 2017 and returned on March 27, 2017.

In support of his claim, appellant submitted spine x-rays from Dr. Ambarish Bhat, a radiologist, which provided "no evidence of acute injury in lumbosacral spine." He also provided a form report from Lamin Seisay, a physician assistant, dated March 18, 2017.

In an April 5, 2017 development letter, OWCP requested additional factual and medical evidence in support of appellant's traumatic injury claim. It notified him that nurse practitioners and physician assistants were not considered qualified physicians under FECA. OWCP afforded appellant 30 days for a response.

Appellant subsequently provided an undated work release form signed by Debra Ford, a registered nurse.

By decision dated May 11, 2017, OWCP accepted that the March 18, 2017 employment incident occurred as alleged, but denied appellant's claim as he had not submitted any medical evidence containing a medical diagnosis in connection with the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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 of FECA, that an injury was sustained 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[3]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.[4]

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical

[2] *Id.*

[3] *A.D.*, Docket No. 17-1855 (issued February 26, 2018); *Gary J. Watling*, 52 ECAB 357 (2001).

[4] *A.D., id.*; *T.H.*, 59 ECAB 388 (2008).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[5]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury causally related to the accepted March 18, 2017 employment incident.

It is undisputed that on March 18, 2017 appellant, with a coworker, was lifting a manifold which his coworker unexpectedly lowered to the ground. However, the Board finds that he failed to submit sufficient medical evidence to establish that this work incident caused or aggravated his back condition.[6]

Appellant submitted a report from a physician assistant dated March 18, 2017 and an undated report from a registered nurse. However, the Board has held that reports by a physician assistant and a registered nurse are not considered medical evidence as those health care providers are not considered physicians under FECA.[7]

Appellant has provided no medical evidence, from a physician, diagnosing a condition as the result of his March 18, 2017 employment incident and has, therefore, failed to meet his burden of proof to establish a traumatic injury claim.[8]

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.[9] Appellant's honest belief that the April 4, 2014 employment incident caused his medical conditions is not in question, but that belief, however sincerely held, does not constitute the medical evidence to establish causal relationship.[10]

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.

[5] *A.D., supra* note 3; *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[6] *M.E.*, Docket No. 17-1857 (issued February 2, 2018).

[7] *See K.E.*, Docket No. 17-1216 (issued February 22, 2018); *M.M.*, Docket No. 17-1641 (issued February 15, 2018); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law).

[8] *O.R.*, Docket No. 17-1735 (issued January 2, 2018).

[9] *G.E.*, Docket No. 17-1719 (issued February 6, 2018); *D.D.*, 57 ECAB 734 (2006).

[10] *G.E, id.*; *H.H.*, Docket No. 16-0897 (issued September 21, 2016).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a traumatic injury causally related to the accepted March 18, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 11, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 17, 2018
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