



On his Form CA-2, appellant did not include a description of the particular employment activity/activities he believed either caused or contributed to his bilateral shoulder pain. He stopped work on September 15, 2016.

In support of his claim, appellant submitted a position description which described his federal duties, including delivering and collecting mail on foot or by vehicle.

Appellant also submitted a September 15, 2016 intake form indicating that he was injured while delivering mail. The form report noted that, with the constant repetition, his shoulder began to hurt and that he had a prior shoulder surgery in March 2013.

In a September 15, 2016 report, Charmaine Downer, a nurse practitioner, diagnosed cervical strain and bilateral arm strain.<sup>2</sup> She noted that appellant constantly moved packages at his job and both of his shoulders began to hurt during the time of work.

Ms. Downer also submitted a duty status report (Form CA-17) dated September 15, 2016 providing work restrictions.

In an October 3, 2016 development letter, OWCP advised appellant of the deficiencies of his claim and instructed him as to the additional information necessary to establish his claim. It also included a questionnaire which inquired as to the work factors which he believed had caused him to sustain an occupational disease and the frequency and duration of those factors. Appellant was afforded 30 days to submit additional evidence and respond to its inquiries.

In response, appellant resubmitted Ms. Downer's September 15, 2016 report. He did not provide a response to the questionnaire.

By decision dated December 6, 2016, OWCP denied appellant's claim finding that the evidence of record was insufficient to establish that he failed to establish fact of injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 is causally related to the employment injury.<sup>3</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup> To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee

---

<sup>2</sup> The diagnoses included: strain of muscle, fascia and tendon of neck (cervical); strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, left arm; strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, right arm; and pain.

<sup>3</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>4</sup> *L.B.*, Docket No. 18-0411 (issued September 12, 2018); *Michael E. Smith*, 50 ECAB 313 (1999).

must submit 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.<sup>5</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an injury in the performance of duty, as alleged.

Upon review of the evidence of record it is found that appellant has not established the factual component of his claim as he failed to describe the job activities he believed contributed to his alleged employment injury and did not explain the duration of such activities. It is appellant's burden of proof to establish the essential elements of his claim.<sup>6</sup> To establish a claim for compensation in an occupational disease claim, an employee must submit a statement which identifies the factors of employment believed to have caused his or her condition.<sup>7</sup> Appellant failed to provide sufficient detail to establish that an occupational exposure occurred as alleged. He did not adequately describe the circumstances of his injury, the duties he was performing which caused his injury, or the mechanism of injury.<sup>8</sup>

In an October 3, 2016 development letter, OWCP requested that appellant respond to its questionnaire and provide detailed information concerning the job activities he believed contributed to his alleged shoulder injury. While a September 15, 2016 medical form report generally noted constant repetition while delivering mail, there is no statement from appellant describing the specific employment-related activities which he believed contributed to his condition and the amount of time he spent engaging in such activities.<sup>9</sup> Absent this evidence, as was requested in the questionnaire sent to appellant, it cannot be determined whether the history of injury provided in the medical evidence of record corresponds with his alleged injury.

The Board finds that the record lacks sufficient factual evidence to establish the specific details of how the claimed injury occurred. As appellant has not established the factual aspect of his claim, the medical evidence regarding causal relationship need not be addressed.<sup>10</sup>

---

<sup>5</sup> See *D.R.*, Docket No. 09-1723 (issued May 20, 2010). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *Supra* note 3.

<sup>7</sup> *D.M.*, Docket No. 18-0335 (issued June 18, 2018).

<sup>8</sup> *Id.*

<sup>9</sup> See *D.C.*, Docket No. 18-0082 (issued July 12, 2018).

<sup>10</sup> See *V.F.*, 58 ECAB 321, 327 (2007).

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 an injury in the performance of duty, as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 6, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 27, 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