United States Department of Labor
Employees' Compensation Appeals Board

C.L., Appellant	)	
and	)	**Docket No. 18-0540**
	)	**Issued: October 17, 2018**
U.S. POSTAL SERVICE, POST OFFICE, Westbury, NY, 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 December 4, 2017 appellant filed a timely appeal from a September 8, 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 the case.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish a left ankle condition causally related to the accepted June 12, 2017 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The record provided the Board includes evidence received after OWCP issued its September 8, 2017 decision. The Board's jurisdiction is limited to the evidence in the case record that was before OWCP at the time of its 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 June 22, 2017 appellant, a 24-year-old city carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on June 12, 2017 she sustained a left ankle injury when she stepped into a hole and twisted her left ankle while in the performance of duty. She stopped work and went to the Nassau University Medical Center, where she was seen and discharged the same day.

A partial copy of the June 12, 2017 Nassau University Medical Center hospital report indicated that appellant was seen by Dr. Mark Fonrose, a Board-certified emergency medical specialist. Examination findings and an assessment of left ankle sprain was noted. Appellant was provided a discharge plan and informed that she could return to work.

In the attending physician's portion of a partial authorization for examination and/or treatment form (Form CA-16) dated June 12, 2017, a physician with an illegible signature, indicated that appellant was seen for an ankle twisting injury that day. A diagnosis of ankle sprain was provided and, by checking a box marked "yes," the physician indicated that appellant's work activity of "walking" caused or aggravated the diagnosed condition.

Left ankle and left foot x-rays dated June 12, 2017 noted a history of twisted ankle at work. There was no evidence of acute fracture or dislocation, but soft tissue swelling at the lateral aspect of the left ankle was seen.

In an undated duty status report (Form CA-17), a provider with an illegible signature, diagnosed an ankle sprain and indicated that appellant could perform four hours of work. The injury was described as occurring on June 12, 2017 when appellant, a city carrier associate, fell in a hole in the lawn which she was crossing and twisted her left ankle.

The employing establishment controverted the claim and submitted statements dated July 26 and 27, 2017.

In a development letter dated August 1, 2017, OWCP requested that appellant submit additional factual and medical evidence in support of her claim. To establish the factual portion of her claim, appellant was provided a questionnaire to complete. OWCP also informed appellant that rationalized medical evidence was needed to establish her claim. It afforded her 30 days to respond.

OWCP received an August 2, 2017 Form CA-17 signed by an unknown provider with an illegible signature. A date of injury of June 12, 2017 was noted and a diagnosis of left ankle sprain was provided.

By decision dated September 8, 2017, OWCP denied appellant's claim finding that she had failed to meet her burden of proof to establish that her left ankle condition was causally related to the accepted June 12, 2017 employment incident.

LEGAL PRECEDENT

A claimant seeking benefits under FECA[3] 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.[4]

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.[5] The second component is whether the employment incident caused a personal injury.[6] 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.[7]

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.[8] A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.[9] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left ankle condition causally related to the accepted June 12, 2017 employment incident.

Appellant submitted partial reports from Nassau University Medical Center dated June 12, 2017. Dr. Fonrose noted that, on that day, appellant had a twisting injury at work and he provided an assessment of left ankle sprain. However, he failed to provide any rationalized medical opinion regarding causal relationship. Without explaining how, physiologically, the movements involved in the employment incident caused or contributed to the diagnosed condition,

[3] *Supra* note 1.

[4] 20 C.F.R. § 10.115(e), (f); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

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

[6] *John J. Carlone*, 41 ECAB 354 (1989).

[7] *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

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

[9] *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

[10] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Dr. Fonrose's opinion on causal relationship is equivocal in nature and of limited probative value.[11] To establish personal injury the medical evidence of record must document a diagnosed condition and must explain how that condition is causally related to the accepted employment incident. Lacking rationalized medical opinion regarding causal relationship, the hospital report is of limited probative value.[12]

In the partial Form CA-16 dated June 12, 2017, a physician with an illegible signature, indicated that appellant was seen for an ankle twisting injury that day and provided a diagnosis of ankle sprain. In an undated Form CA-17, a provider with an illegible signature, diagnosed an ankle sprain. While a history of injury of the July 12, 2017 injury was described, no opinion on causal relationship was provided. In an August 2, 2017 Form CA-17, a provider with an illegible signature, noted a date of injury of June 12, 2017 and diagnosed a left ankle sprain. The Board has held that unsigned reports or reports that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.[13] For these reasons, this evidence is insufficient to meet appellant's burden of proof.

The diagnostic reports are also of diminished probative value. The Board has held that reports of diagnostic tests are of limited probative value as they do not provide an opinion on the causal relationship between appellant's employment duties and the diagnosed conditions.[14]

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.[15] Appellant's honest belief that her accepted employment incident caused her medical conditions is not in question, but that belief, however sincerely held, does not constitute the medical evidence necessary to establish causal relationship.[16]

There is no medical evidence of record which diagnosed a condition from the June 12, 2017 employment incident and offered a well-rationalized opinion regarding causal relationship. For these reasons, appellant has failed to meet her burden of proof to establish a June 17, 2017 employment 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. §§ 10.605 through 10.607.

[11] *See S.S.*, Docket No. 18-0081 (issued August 22, 2018).

[12] *See D.S.*, Docket No. 17-0839 (issued October 12, 2017).

[13] *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

[14] *See R.T.*, Docket No. 17-2019 (issued August 24, 2018).

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

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

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a left ankle condition causally related to the accepted June 12, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the September 8, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 17, 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