

**United States Department of Labor
Employees' Compensation Appeals Board**

T.H., Appellant)
and) Docket No. 18-0572
DEPARTMENT OF JUSTICE, BUREAU OF) Issued: October 1, 2018
PRISONS, Greenville, IL, Employer)

)

Appearances: Case Submitted on the Record
Appellant, pro se
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 23, 2018 appellant filed a timely appeal from an August 18, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 has met his burden of proof to establish a right thumb injury causally related to the accepted May 5, 2016 employment incident.

FACTUAL HISTORY

On July 9, 2016 appellant, then a 37-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that, on May 5, 2016, he sustained a right thumb injury during a training exercise at work when he fell forward with his hands under his body. He notified his

¹ 5 U.S.C. § 8101 *et seq.*

supervisor on the day of injury. On the reverse side of the claim form, appellant's supervisor reported that he was injured in the performance of duty.

In a June 14, 2016 medical report, Dr. Lisa Sasso, a Board-certified orthopedic surgeon, reported that appellant presented for evaluation of the right thumb. She reported that the right thumb injury occurred in the beginning of May when he fell while playing with his kids. Dr. Sasso reviewed x-rays and diagnosed right thumb metacarpophalangeal (MP) joint ulnar collateral ligament sprain, possible tear. She provided right thumb splint and recommended a magnetic resonance imaging (MRI) scan for further assessment.

In a July 8, 2016 medical report, Dr. Patrick Stewart, a Board-certified hand surgeon, related that appellant was first evaluated on June 14, 2016 for an injury he sustained in early May. Appellant informed him that the injury occurred at work. An MRI scan of the right thumb confirmed the diagnosis of right thumb ulnar collateral ligament tear at the MP joint. He reported that appellant was eight weeks postinjury and recommended operative intervention to restore function. Dr. Stewart noted that he would request approval for surgery and recommended he continue with his splint over this interval.

In an October 18, 2016 report, Dr. Sasso noted that appellant was diagnosed with a collateral ligament injury in May 2016, as confirmed by a right thumb MRI scan. Dr. Sasso noted that appellant was awaiting authorization from OWCP for surgery.

By development letter dated July 13, 2014, OWCP informed appellant that the evidence of record was insufficient to establish his traumatic injury claim. It advised appellant of the medical and factual evidence needed to establish his claim. OWCP provided appellant a questionnaire for his completion and afforded appellant 30 days to submit the necessary evidence.

On August 1, 2017 appellant responded to the development letter and submitted the requested questionnaire. The questionnaire noted that there were conflicting statements as appellant first reported on his CA-1 that the injury occurred during a work training exercise while Dr. Sasso reported that he indicated that the injury occurred while he was playing with his kids. Appellant responded by stating that he initially did not plan to report the injury through a workers' compensation claim because he assumed it to be a minor injury. He named his supervisor and two other coworkers as having witnessed his injury or with immediate knowledge of it. Appellant reported that he did not file his Form CA-1 within 30 days of the alleged May 5, 2016 employment incident because he assumed it was a simple sprain and thought it would heal without medical treatment.

In support of his claim, appellant submitted a May 16, 2017 diagnostic report from Dr. P.C. Shekar, a Board-certified radiologist, who reported that appellant shut his finger in a car door and complained of third digit pain. An x-ray of the right third finger revealed mild soft tissue swelling over the proximal interphalangeal (PIP) joint.

By decision dated August 18, 2017, OWCP denied appellant's claim, finding that the evidence of record failed to establish that his right thumb condition was causally related to the accepted May 5, 2016 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 are causally related to the employment injury.³ 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.⁴

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.⁵ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish causal relationship between the diagnosed condition and the employment event or incident or any attendant disability claimed, the employee must submit rationalized medical opinion evidence supporting such causal relationship.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁷

ANALYSIS

The Board finds that appellant has not established that his right thumb condition is causally related to the accepted May 5, 2016 employment incident.⁸

² *Supra* note 1.

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

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Elaine Pendleton*, *supra* note 3.

⁶ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁷ *James Mack*, 43 ECAB 321 (1991).

⁸ See *Robert Broome*, 55 ECAB 339 (2004).

In support of his claim, appellant submitted medical reports dated June 14 to October 18, 2016 from Dr. Sasso and Dr. Stewart. The Board finds that the reports of these physicians are not well rationalized and insufficient to establish appellant's claim. Dr. Sasso and Dr. Stewart failed to provide any details pertaining to the May 5, 2016 employment incident, only generally noting that an injury occurred in early May. While the physicians provided a firm medical diagnosis of right thumb ulnar collateral ligament tear at the MP joint, they failed to provide an opinion regarding the cause of his condition. The Board has held that a physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to the diagnosed medical condition.⁹ Without explaining how physiologically the movements involved in the employment incident caused or contributed to the diagnosed condition, the reports of Dr. Sasso and Dr. Stewart are of limited probative value and insufficient to meet appellant's burden of proof.¹⁰

Dr. Sasso's June 14, 2016 report described a right thumb injury as having occurred in the beginning of May when appellant fell while playing with his kids. Her medical report contradicts appellant's account of the alleged May 5, 2016 work-related injury as it suggests his right thumb tear was caused by a nonoccupational injury.¹¹ Neither Dr. Sasso nor Dr. Stewart ever described the circumstances surrounding the May 5, 2016 work incident alleged to have caused his current right thumb condition. Without any mention of the May 5, 2016 employment incident, any findings made by the physician are insufficient to establish causal relationship.¹²

Dr. Shekar's May 16, 2017 diagnostic report also calls into question the circumstances surrounding appellant's right thumb injury. The report provided x-ray findings for the right third finger, noting that appellant complained of right third digit pain after shutting his finger in a car door. It remains unclear if appellant also injured his right thumb during this nonindustrial incident having also occurred in May. Given the above, the medical evidence of record fails to support that appellant's right thumb condition was causally related to the accepted May 5, 2016 employment incident. Thus, appellant has failed to meet his burden of proof.¹³

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.

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ See *L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

¹¹ *C.f. S.A.*, Docket No. 10-1786 (issued May 4, 2011).

¹² *S.Y.*, Docket No. 11-1816 (issued March 16, 2012).

¹³ See generally *P.O.*, Docket No. 14-1675 (issued December 3, 2015); *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a right thumb injury causally related to the accepted May 5, 2016 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated August 18, 2017 is affirmed.

Issued: October 1, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy 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