

In support of her claim, appellant submitted: June 12, 2017 x-rays of her lumbar spine; a June 12, 2017 return to work outline and June 12, 2017 disability slip of Dr. Matthew Tincer, an attending Board-certified emergency medicine physician;² general emergency department discharge instructions; a June 28, 2017 continuation of pay nurse report; an unsigned “workers compensation claim” form listing a June 12, 2017 date of injury; a June 26, 2017 report in which an attending nurse indicated that appellant reported injuring herself by lifting a heavy box on June 12, 2017; and a November 3, 2017 administrative document memorializing a visit to Radiology Alliance, P.C.

In a January 4, 2018 development letter, OWCP advised appellant that the evidence she had submitted was insufficient to establish that she actually experienced an employment incident. It requested that appellant submit additional evidence in support of her claim, including a physician’s opinion supported by a medical explanation as to how an employment incident caused or aggravated a medical condition. OWCP requested that she complete and return an attached questionnaire which posed various questions regarding how the alleged June 12, 2017 injury occurred. It afforded her 30 days to submit a response.

Appellant submitted a copy of the questionnaire that she signed on January 9, 2018, but she did not answer any of the questions posed by questionnaire.

By decision dated February 15, 2018, OWCP denied appellant’s claim for a June 12, 2017 employment injury. It found that she failed to meet her burden of proof to establish the fact of injury, noting that she did not provide any statement explaining how the claimed June 12, 2017 employment injury occurred.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

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 the fact of injury. First, the employee must submit

² Dr. Tincer listed a June 12, 2017 date of injury and found disability from June 12 to 13, 2017.

³ See *supra* note 1.

⁴ C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. § 10.5(q), (ee); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁶ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷ Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁸

ANALYSIS

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

By decision dated February 15, 2018, OWCP denied appellant's claim for a June 12, 2017 employment injury. It found that appellant failed to meet her burden of proof to establish fact of injury, noting that she did not provide any statement explaining how the alleged June 12, 2017 employment injury occurred.

The Board finds that appellant failed to meet her burden of proof to establish fact of injury. Despite being advised of the insufficiency of her initial submission of evidence, appellant failed to submit a statement, in her own words, explaining what employment activity or condition she believed caused her alleged June 12, 2017 employment injury.⁹ As noted, to establish fact of injury, an employee must first submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.¹⁰ Appellant has failed to meet this first component of establishing fact of injury and therefore has failed to establish her claim for a June 12, 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty on June 12, 2017, as alleged.

⁶ *Julie B. Hawkins*, 38 ECAB 393 (1987).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *See I.J.*, 59 ECAB 408 (2008); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁹ The record contains a June 26, 2017 report in which an attending nurse indicated that appellant reported injuring herself by lifting a heavy box on June 12, 2017. The Board notes that this document does not constitute a statement of appellant in her own words and that the report does not specify that the reported lifting event occurred at work.

¹⁰ *See supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the February 15, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 10, 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