United States Department of Labor
Employees' Compensation Appeals Board

C.L., Appellant	)	
and	)	**Docket No. 18-1732**
	)	**Issued: April 2, 2019**
DEPARTMENT OF STATE, LOS ANGELES PASSPORT AGENCY, Los Angeles, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 14, 2018 appellant filed a timely appeal from an August 29, 2018 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 this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that following the August 29, 2018 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a traumatic injury causally related to the accepted July 12, 2018 employment incident.

FACTUAL HISTORY

On July 19, 2018 appellant, then a 45-year-old passport specialist, filed a traumatic injury claim (Form CA-1) alleging that on July 12, 2018 she injured her left arm when she stumbled and hit a metal cabinet while in the performance of duty. On the reverse side of the claim form the employing establishment indicated that appellant had been injured while in the performance of duty. It noted that appellant stopped work on July 13, 2018 and returned to work on July 16, 2018.

In a report dated July 13, 2018, Dr. Quynh Thuy Dinh, Board-certified in internal medicine, related that she examined appellant for left arm and left hand pain. She did not indicate a diagnosis. Dr. Dinh noted that appellant should see her workers' compensation physician.

In a development letter dated July 23, 2018, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised that she should submit a rationalized medical opinion which provided a diagnosis of her condition and explained how the employment incident caused the diagnosed condition. OWCP afforded appellant 30 days to provide the necessary evidence. No further evidence was received.

By decision dated August 29, 2018, OWCP denied appellant's traumatic injury claim. It found that she had not established a diagnosed medical condition due to the accepted July 12, 2018 employment incident and, therefore, she had not met the requirements to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 and/or specific condition for which compensation is claimed is causally related to the employment injury.[4] 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.[5]

[3] *Supra* note 1.

[4] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[5] *P.F.*, Docket No. 18-0973 (issued January 22, 2019); *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether fact of injury has been established.[6] 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.[7] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[8]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[9] Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the compensable employment factors.[10] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a traumatic injury causally related to the accepted July 12, 2018 employment incident.

The Board finds that appellant has not submitted medical evidence from a physician containing a diagnosis in connection with the July 12, 2018 employment incident.[12] The only medical evidence of record is an after visit summary dated July 13, 2018 from Dr. Dinh in which she indicated that she examined appellant for left arm and left hand pain, and noted that appellant should visit a workers' compensation physician. The Board has explained that pain is not considered a diagnosis as it merely refers to symptoms of the underlying condition.[13] Because Dr. Dinh's July 13, 2018 after visit summary did not contain a firm diagnosis or opinion regarding causal relationship, it is insufficient to establish that appellant sustained a medical condition causally related to the accepted July 12, 2018 employment incident.[14] Appellant has the burden

[6] *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

[7] *P.F.*, *supra* note 5; *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

[8] *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

[9] *E.J.*, Docket No. 18-0207 (issued July 13, 2018); *A.D.*, 58 ECAB 149 (2006).

[10] *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2008).

[11] *P.R.*, Docket No. 18-0737 (issued November 2, 2018).

[12] *See E.B.*, Docket No. 18-0014 (issued July 12, 2018); *L.F.*, Docket No. 17-1511 (issued November 28, 2017); *J.P.*, Docket No. 14-0087 (issued March 14, 2014).

[13] *See T.C.*, Docket No. 18-1498 (issued February 13, 2019).

[14] *See R.C.*, Docket No. 18-1639 (issued February 26, 2019).

of proof to submit rationalized medical evidence establishing that a diagnosed medical condition was causally related to the accepted July 12, 2018 employment incident.[15] She has not submitted such evidence and thus has not met her burden of proof.

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 a traumatic injury causally related to the accepted July 12, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the August 29, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 2, 2019
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

[15] *Id*.