United States Department of Labor
Employees' Compensation Appeals Board

R.T., Appellant	)	
and	)	**Docket No. 19-1346**
	)	**Issued: December 4, 2019**
DEPARTMENT OF THE AIR FORCE, AIR FORCE MATERIEL COMMAND, DAVIS-MONTHAN AIR FORCE BASE, AZ, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On June 5, 2019 appellant filed a timely appeal from a May 29, 2019 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish a right elbow condition causally related to the accepted December 14, 2018 employment incident.

FACTUAL HISTORY

On December 14, 2018 appellant, then a 42-year-old aircraft pneudraulic mechanic, filed a traumatic injury claim (Form CA-1) alleging that on that date he strained his elbow when he

[1] 5 U.S.C. § 8101 *et seq.*

caught a pry bar that was starting to fall while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that the injury occurred in the performance of duty. The claim form was accompanied by an official position description for an aircraft pneudraulic mechanic and a May 13, 2018 SF-50 form.

In a December 20, 2018 development letter, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the factual and medical evidence necessary and also provided a questionnaire for completion. OWCP afforded appellant 30 days to provide the necessary evidence.

OWCP subsequently received hospital records and discharge instructions dated December 17, 2018 from Dr. Marissa Hahn, an emergency medicine physician, who recounted that appellant complained of right elbow pain after "hyperextending it on Friday at work." Dr. Hahn noted that appellant worked as a mechanic and had right elbow pain for the past few weeks. She indicated that several days ago appellant "reached out to grab something heavy that was falling and his symptoms worsened immediately thereafter." Upon physical examination of his right elbow, appellant reported sharp and throbbing pain and no swelling. Range of motion was full. Dr. Hahn diagnosed right elbow lateral epicondylitis and noted that appellant was able to work in a limited-duty capacity as of December 18, 2018. She also completed a duty status report (Form CA-17), which indicated that appellant could resume work.

A December 17, 2018 right elbow x-ray revealed a negative examination.

OWCP also received an unsigned authorization for examination and/or treatment (Form CA-16). In Part B of the Form CA-16, an attending physician's report, dated December 17, 2018, an unknown provider with an illegible signature reported a history of injury that appellant had experienced lateral elbow pain for the past three to four weeks and then suddenly caught a heavy object at work, which worsened his condition. Appellant was diagnosed with lateral epicondylitis. The provider checked a box marked "yes," indicating that appellant's condition was caused or aggravated by the employment activity.

By decision dated January 31, 2019, OWCP denied appellant's claim. It accepted that the December 14, 2018 employment incident occurred as alleged, but denied his claim as the medical evidence of record was insufficient to establish causal relationship between his diagnosed lateral epicondylitis condition and the accepted employment incident.

On February 27, 2019 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

In a March 6, 2019 report, Dr. Cynthia Miley, a family practitioner, related that appellant was examined for complaints of right elbow pain. She recounted that he hurt his elbow in December 2018 while at work when he attempted to catch a pry bar and felt a pop in his lateral elbow. Dr. Miley indicated that appellant had a sore elbow and mild pain in the same place for two to three weeks before the incident. Upon examination of appellant's right elbow, she reported tenderness in the lateral epicondyle and full range of motion. Dr. Miley diagnosed right elbow lateral epicondylitis. She authorized appellant to resume regular duty.

By decision dated May 29, 2019, an OWCP hearing representative affirmed OWCP's January 31, 2019 decision denying appellant's traumatic injury claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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 of FECA,[3] that an injury was sustained in the performance of duty as alleged, and that any disability or medical 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 upon a traumatic injury or an occupational disease.[5]

In order to determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.[6] There are two components involved in establishing fact of injury. 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 evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.[8]

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.[9] 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 factor(s) identified by the employee.[10] The weight of the medical

[2] *Id.*

[3] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[4] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

[7] *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[8] *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

[9] *See S.A.*, Docket No. 18-0399 (issued October 16, 2018); *see also Robert G. Morris*, 48 ECAB 238 (1996).

[10] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

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.[11]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right elbow condition causally related to the accepted December 14, 2018 employment incident.

Appellant was initially examined in the hospital emergency department. In records dated December 17, 2018, Dr. Hahn described that several days ago appellant reached out to grab something heavy at work and hyperextended his right elbow. She conducted an examination and diagnosed right elbow lateral epicondylitis. Dr. Hahn did not, however, indicate whether appellant's right elbow condition resulted from the December 14, 2018 employment incident. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[12] Therefore, Dr. Hahn's records are insufficient to establish appellant's claim.

Likewise, the March 6, 2019 report by Dr. Miley also provided a diagnosis of right elbow lateral epicondylitis, but did not offer an opinion on the cause of appellant's condition.[13] The Board notes that a well-rationalized medical opinion on causation is particularly needed in this case since both Dr. Hahn and Dr. Miley reported that appellant had experienced right elbow pain for a few weeks before the December 14, 2018 work event. Neither physician provided an opinion on causal relationship that included medical rationale explaining how appellant's current right elbow condition resulted from the December 14, 2018 employment incident in light of appellant's preexisting right elbow pain.[14]

The December 17, 2018 right elbow x-ray also fails to establish appellant's claim as it revealed negative findings. The Board has explained that diagnostic studies lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.[15]

Appellant also submitted Part B of a Form CA-16 dated December 17, 2018 by an unknown provider. The Board has previously held, however, that reports that are unsigned or that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.[16] This report, therefore, is insufficient to establish appellant's claim.

[11] *James Mack*, 43 ECAB 321 (1991).

[12] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[13] *See S.B.*, Docket No. 18-0381 (issued August 20, 2018); *Willie M. Miller*, 53 ECAB 697 (2002).

[14] *W.S.*, Docket No. 17-1769 (issued July 26, 2018); *S.W.*, Docket No. 08-2538 (issued May 21, 2009).

[15] *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

[16] *G.N.*, Docket No. 19-0184 (issued May 29, 2019); *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

On appeal appellant notes his disagreement with OWCP's reasoning. As noted, in order to obtain benefits under FECA, an employee 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.[17] Because the evidence of record is insufficient to establish causal relationship, he has not met his burden of proof to establish his traumatic injury claim.

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 a right elbow condition causally related to the accepted December 14, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 29, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 4, 2019
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

[17] *Supra* notes 4 & 5.