

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury in the performance of duty on September 19, 2017, as alleged.

FACTUAL HISTORY

On October 5, 2017 appellant, then a 54-year-old deportation officer, filed a traumatic injury claim (Form CA-1) alleging that, at 10:30 a.m. on September 19, 2017, he was at the employing establishment's target range performing required firearms training in full body armor when he began perspiring profusely, became lethargic, lost span of time momentarily, and became slightly incoherent. He stopped work on September 19, 2017 and returned to work on October 10, 2017.

Appellant sought medical treatment at an emergency room on the date of injury. In a September 19, 2017 report, Dr. Jennifer A. Fernandez, an emergency medicine physician, provided a final diagnosis of near syncope. Diagnostic tests results were also provided.

Work excuse notes dated September 27 and October 3, 2017, from a physician with an illegible signature, indicated that appellant had a work-related near syncope episode.

In a February 9, 2018 report, Dr. Victor H. Faradji, a neurologist, noted that appellant had recurrent episodes of lightheadedness since September 2017. He reported that the first episode occurred while appellant was at a shooting range, a second similar incident occurred at a shooting range in December 2017, and a third episode occurred at home, where appellant apparently hit his head. Dr. Faradji reported that appellant had not worked "since December 2017." He provided an assessment of near syncope and noted that episodes could be in part related to hypokalemia or dehydration. Dr. Faradji noted that a February 12, 2018 awake electroencephalography (EEG) test was within normal limits. He also noted results of a February 21, 2018 carotid ultrasound.

By development letter dated March 12, 2018, OWCP notified appellant that his claim was initially administratively handled to allow medical payments, as it appeared to involve a minor injury resulting in minimal or no lost time from work. However, appellant's claim was reopened for consideration of the merits because his medical bills had exceeded \$1,500.00. OWCP informed him that the evidence of record was insufficient to establish his traumatic injury claim. It noted that the evidence was insufficient to establish that appellant actually experienced the incident or employment factor alleged to have caused injury; no diagnosis of any condition resulting from his injury had been provided; the evidence was insufficient to support that he was injured while performing any duty of his employment; and a physician's opinion as to how his injury resulted in the condition diagnosed had not been provided. OWCP advised him of the type of factual and medical evidence necessary to establish his claim and included a questionnaire for his completion. It afforded appellant 30 days to submit additional evidence.

In response, appellant submitted copies of medical reports previously of record.

By decision dated April 19, 2018, OWCP denied appellant's claim. It found that he had not established that a specific employment event(s) occurred as alleged, therefore he had not

established the factual component of his claim. OWCP further noted that appellant had not submitted medical evidence that established a diagnosed medical condition causally related to an employment injury or event, therefore fact of injury had not been established.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his 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 is 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

To determine whether a federal employee 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 fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁵

Appellant's burden of proof includes the submission of a detailed description of the employment factors which he or she believes caused or adversely affected a condition for which compensation is claimed.⁶

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury in the performance of duty on September 19, 2017, as alleged.

On his Form CA-1, appellant noted that on September 19, 2017 he was at the employing establishment's target range, wearing body armor, when he began perspiring, became lethargic, and became incoherent. He did not identify specific employment factors alleged to have caused his condition. The Board notes that his limited description of the traumatic incident fails to provide sufficient details to determine the circumstances surrounding his injury.⁷ The alleged mechanism of injury could not be determined as essential information such as a description of the activities

³ *B.G.*, Docket No. 16-0121 (issued May 19, 2016); *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁴ *B.G., id.; S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *B.G., id.; T.H.*, 59 ECAB 388 (2008).

⁶ *See D.C.*, Docket No. 18-0082 (issued July 12, 2018); *S.J.*, Docket No. 17-1798 (issued February 23, 2018).

⁷ *K.S.*, Docket No. 17-2001 (issued March 9, 2018).

appellant performed on the target range was not provided.⁸ The only explanation provided pertaining to the claimed September 19, 2017 traumatic incident was the limited statement noted in his Form CA-1. By failing to sufficiently describe the employment incident and circumstances surrounding his alleged injury, appellant has not established that the traumatic injury occurred at the time, place, and in the manner alleged.⁹

In a March 12, 2018 development letter, OWCP informed appellant that the evidence of record was insufficient as he had not sufficiently described the employment factors alleged to have caused his injury. Appellant was asked to describe those alleged work factors in detail, but he did not respond to OWCP's request for additional factual information.¹⁰ Accordingly, as he failed to present a clear factual statement identifying specific employment factors or conditions alleged to have caused or contributed to his claimed medical condition, he has not met his burden of proof.¹¹

As appellant has not established the factual element of his claim, the Board will not address the medical evidence.

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 traumatic injury in the performance of duty on September 19, 2017, as alleged.

⁸ See *R.V.*, Docket No. 17-1286 (issued December 5, 2017).

⁹ *P.T.*, Docket No. 14-0598 (issued August 5, 2014).

¹⁰ *K.S.*, *supra* note 7; *see also K.W.*, Docket No. 16-1656 (issued December 15, 2016).

¹¹ See *D.C.*, *supra* note 6; *D.D.*, 57 ECAB 734 (2006).

ORDER

IT IS HEREBY ORDERED THAT the April 19, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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