

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

C.C., Appellant)	
)	
and)	Docket No. 19-0059
)	Issued: May 29, 2019
DEPARTMENT OF DEFENSE, DEFENSE)	
FINANCE & ACCOUNTING SERVICE,)	
Indianapolis, IN, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On October 9, 2018 appellant filed a timely appeal from an August 3, 2018 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 to consider the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the August 3, 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 evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a left thumb injury causally related the accepted May 29, 2018 employment incident.

FACTUAL HISTORY

On June 11, 2018 appellant, then a 59-year-old lead civilian pay technician, filed a traumatic injury claim (Form CA-1) alleging that, on May 29, 2018, at 10:00 a.m., while ascending stairs, she tripped and fell forward onto her outstretched left hand while in the performance of duty. She described the immediate onset of shooting pain in her left thumb, with numbness of her left hand and upper extremity. The record indicates that she stopped work on or about June 11, 2018.³

In a development letter dated June 12, 2018, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of medical and factual evidence needed, including a detailed description of the May 29, 2018 employment incident and a narrative report from her physician explaining how and why that event would cause the claimed left hand condition. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a report dated March 8, 2018 by Dr. Dale Dellacqua, an attending physician Board-certified in orthopedic surgery and hand surgery. Dr. Dellacqua noted a November 14, 2017 employment injury to the left thumb. He obtained x-rays of the left thumb and wrist which demonstrated a fractured marginal osteophyte of the carpometacarpal (CMC) joint with CMC arthritis. Dr. Dellacqua opined that appellant had a “work-related aggravation of a preexisting condition.” He administered an injection to the left CMC joint and prescribed a splint.

In a report dated April 19, 2018, Dr. Dellacqua related that appellant had fallen on her outstretched left upper extremity while at work slipping on a wet floor and since that time has had thumb pain. He diagnosed CMC arthritis of the left thumb.

In a report dated May 31, 2018, Dr. Dellacqua noted that appellant had been in treatment for CMC arthritis of the left thumb and had been wearing a splint when she fell tripping up stairs on May 29, 2018. He diagnosed an exacerbation of preexisting CMC arthritis related to the injury she described. Dr. Dellacqua recommended a CMC arthroplasty.

By decision dated August 3, 2018, OWCP accepted that the May 29, 2018 employment incident had occurred as alleged. It denied the claim, however, finding that appellant had not met her burden of proof to establish that her left thumb condition was causally related to the accepted employment incident.

³ Appellant had filed a prior traumatic injury claim, which was assigned OWCP File No. xxxxxx522, for an employment injury to her left thumb sustained on November 14, 2017. This claim was denied by OWCP on April 30, 2018.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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,⁴ 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.⁵ 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.⁶

In order to determine whether an employee sustained a traumatic 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.⁷ The second component is whether 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 evidence.⁹ 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 employee.¹⁰ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹¹

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

⁷ *R.E.*, Docket No. 17-0547 (issued November 13, 2018); *David Apgar*, 57 ECAB 137 (2005); *Delphyne L. Glover*, 51 ECAB 146 (1999).

⁸ *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.E.*, *id.*

⁹ *T.H.*, *id.*; *G.N.*, Docket No. 18-0403 (issued September 13, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁰ *K.V.*, Docket No. 18-0723 (issued November 9, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹¹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left thumb injury causally related to the accepted May 29, 2018 employment incident.

Appellant submitted a series of reports from her attending physician, Dr. Dellacqua. In reports dated March 8 and April 19, 2018, Dr. Dellacqua opined that the November 14, 2017 employment incident in which she slipped and fell on a wet floor had aggravated preexisting CMC arthritis of the left thumb. In his May 31, 2018 report, he found that the accepted May 29, 2018 employment incident also exacerbated preexisting CMC arthritis of the left thumb. However, Dr. Dellacqua did not offer medical rationale explaining how the accepted May 29, 2018 employment incident caused or contributed to the diagnosed CMC arthritis of the left thumb.¹² He did not explain how the mechanism of injury would have physiologically caused the diagnosed condition.¹³ Thus, Dr. Dellacqua's reports are insufficient to establish appellant's burden of proof.

The fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship.¹⁴ Temporal relationship alone will not suffice. Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relationship.¹⁵ The Board finds that the record lacks rationalized medical evidence establishing causal relationship between the accepted May 29, 2018 employment incident and her diagnosed left thumb condition.¹⁶ Thus, appellant has not met her burden of proof.¹⁷

On appeal, appellant attributes her left thumb condition to a November 4, 2017 employment incident. As explained above, she has not met her burden of proof to establish causal relationship between the accepted May 29, 2018 employment incident and her diagnosed left thumb condition.

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.

¹² *T.H.*, *supra* note 8; *see C.F.*, Docket No. 18-1156 (issued January 22, 2019) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

¹³ *C.F.*, *id.*

¹⁴ *T.H.*, *supra* note 8; *Daniel O. Vasquez*, 57 ECAB 559 (2006).

¹⁵ *T.H.*, *supra* note 8.

¹⁶ *T.H.*, *supra* note 8; *see J.S.*, Docket No. 17-0507 (issued August 11, 2017).

¹⁷ *K.L.*, Docket No. 18-1029 (issued January 9, 2019).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a left thumb injury causally related to the accepted May 29, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the August 3, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 29, 2019
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board