United States Department of Labor
Employees' Compensation Appeals Board

J.W., Appellant	)	
and	)	**Docket No. 19-0896**
	)	**Issued: November 1, 2019**
U.S. POSTAL SERVICE, POST OFFICE, Elkins Park, PA, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 25, 2019 appellant filed a timely appeal from an October 17, 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 to consider the merits of this case.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish right ankle conditions causally related to the accepted March 3, 2018 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that following the October 17, 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.*

FACTUAL HISTORY

On March 6, 2018 appellant, then a 50-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 3, 2018 she sprained her right ankle due to "snow covered steps" while in the performance of duty. She noted that she first sought medical treatment on March 5, 2018. Appellant stopped work and notified her supervisor of her injury on March 6, 2018.[3]

In support of her claim, appellant submitted prescription notes and form reports from Dr. Bruni Leka, a podiatrist. In March 5 and 18, 2018 prescription notes, Dr. Leka reported that appellant sustained an employment-related right ankle and ligament sprain, and restricted her from returning to work. In a March 19, 2018 attending physician's report (Form CA-20), she noted findings of right ankle pain and swelling and diagnosed right ankle anterior talofibular ligament (ATFL) sprain. Dr. Leka reported that appellant had slipped and sprained her right ankle when walking down snow covered steps while delivering mail on March 3, 2018. She checked a box marked "yes" when asked if the condition was caused or aggravated by the employment incident. In a March 19, 2018 duty status report (Form CA-17), Dr. Leka diagnosed right ankle sprain and restricted appellant from returning to work. She reported that appellant was walking down steps while delivering mail and slipped on ice and twisted her right ankle.

In a development letter dated April 6, 2018, OWCP informed appellant that she had not submitted sufficient factual or medical evidence to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In support of her claim, appellant submitted additional medical reports from Dr. Leka. In a March 19, 2018 medical report, Dr. Leka reported that appellant presented for evaluation of a right ankle sprain which occurred two and a half weeks prior during a work injury. She noted findings of right lateral ankle swelling. Dr. Leka diagnosed right ankle acute ATFL ligament sprain work injury. A stress fracture of the metatarsals was also noted as a chronic condition. In an April 4, 2018 report, Dr. Leka reported that appellant's pain and swelling in the right ankle had improved. In a Form CA-17 of that same date, she released appellant to work for four to five hours per day with restrictions.

By decision dated May 7, 2018, OWCP denied appellant's claim finding that she had not established fact of injury as the evidence of record was insufficient to establish that the March 3, 2018 employment incident occurred as alleged. It noted that appellant had not responded to OWCP's April 6, 2018 questionnaire. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On May 30, 2018 appellant requested review of the written record by a representative of OWCP's Branch of Hearings and Review. In an accompanying narrative statement, she reported that at approximately 11:00 a.m. on March 3, 2018 she was delivering mail. Appellant explained that she was walking down steps at a customer's residence when she "tripped" and fell on the

[3] The record reflects that appellant has a February 24, 2017 occupational disease claim which was accepted for a right foot stress fracture, assigned OWCP File No. xxxxxx514.

steps. She stated that the steps were covered with snow. Appellant reported that she fell on her right side, experienced pain in her right ankle, and slowly walked back to her truck.

Appellant also submitted additional medical reports and CA-17 forms dated April 19 through May 31, 2018 from Dr. Leka. Dr. Leka recommended a magnetic resonance imaging (MRI) scan of appellant's right ankle to assess an acute ATFL tear of the right foot. She released appellant to work with restrictions and recommended an ankle brace.

In a May 3, 2018 narrative report, Dr. Leka reported that appellant was under her care for the March 3, 2018 employment-related injury which occurred while appellant was delivering mail. She reported that appellant was descending snow covered steps of a house when she twisted her right ankle and suffered an inversion sprain and ATFL ligament tear as a result. Dr. Leka evaluated appellant on March 5, 2018 after her pain and swelling had not improved. She reported that appellant's symptoms had currently improved, but had not fully resolved. Dr. Leka noted that appellant was working six to eight hours per day, five days per week as tolerated.

By decision dated October 17, 2018, OWCP's hearing representative affirmed the May 7, 2018 decision, as modified, finding that appellant had established that the March 3, 2018 employment incident occurred as alleged. However, it denied the claim finding that the medical evidence of record was insufficient to establish that appellant's diagnosed right ankle condition was causally related to the accepted March 3, 2018 employment incident.

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 timely filed within the applicable time limitation period of FECA,[4] 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.[5] 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.[6]

To determine if an employee has 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 that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that

[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.*, 59 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).

allegedly 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, 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 incident.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish right ankle conditions causally related to the accepted March 3, 2018 employment incident.

In a March 19, 2018 Form CA-20, Dr. Leka diagnosed right ankle ATFL sprain. She reported that appellant slipped and sprained her right ankle in the snow while walking down the steps delivering mail on March 3, 2018. Dr. Leka checked a box marked "yes" indicating that appellant's condition was caused or aggravated by the employment incident. The Board has held that a checkmark or affirmative notation in response to a form question on causal relationship is insufficient, without medical rationale, to establish causal relationship.[11] Rather, a physician must provide a narrative description of the identified employment incident and a reasoned opinion explaining how the employment incident described caused or contributed to appellant's diagnosed medical conditions.[12] This report is therefore insufficient to establish appellant's claim.[13]

In a May 3, 2018 narrative report, Dr. Leka reported that on March 3, 2018 appellant was walking down snow covered steps and twisted her right ankle while delivering mail, resulting in an inversion sprain and ATFL ligament tear. However, the Board finds that Dr. Leka's general statement on causation failed to provide any explanation as to the mechanism of injury pertaining to this traumatic injury claim, namely, how twisting the right ankle while slipping on snow covered steps would cause a right ankle sprain and ATFL tear.[14] Her brief statement on causal relationship is conclusory in nature, as it does not contain an explanation of how the March 3, 2018 employment incident physiologically caused, contributed to, or aggravated the specific diagnosed

[7] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[9] *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[10] *M.K.*, Docket No. 19-0428 (issued July 15, 2019); *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

[11] *S.S.*, Docket No. 19-0675 (issued August 22, 2019).

[12] *See V.J.*, Docket No. 17-0358 (issued July 24, 2018); *John W. Montoya*, 54 ECAB 306 (2003).

[13] *K.S.*, Docket No. 18-1781 (issued April 8, 2019).

[14] *J.K.*, Docket No. 19-0462 (issued August 5, 2019).

conditions.[15] Dr. Leka's May 3, 2018 report is therefore insufficient to establish causal relationship.

In support of her claim, appellant also submitted prescription notes dated March 5 and 18, 2018; a March 19, 2018 Form CA-17 and a narrative report of even date; an April 4, 2018 Form CA-17 and a narrative report of even date; and additional medical reports and Form CA-17s dated April 19 through May 31, 2018 from Dr. Leka. None of these reports, however, provide an opinion on the issue of causal relationship.[16] While she provided diagnoses and provided restrictions on appellant's ability to return to work, she did not provide an opinion as to whether the accepted March 3, 2018 employment incident had caused a diagnosed condition. 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.[17] These reports, therefore, are insufficient to establish appellant's claim.

The Board finds that the record lacks rationalized medical evidence establishing causal relationship between the March 3, 2018 employment incident and appellant's diagnosed right ankle conditions.[18] Thus, appellant has not met her burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's 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 right ankle conditions causally related to the accepted March 3, 2018 employment incident.

[15] *See M.S.*, Docket No. 19-0189 (issued May 14, 2019); *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *B.H.*, Docket No. 18-1219 (issued January 25, 2019); *Birger Areskog*, 30 ECAB 571 (1979).

[16] *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

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

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

ORDER

IT IS HEREBY ORDERED THAT the October 17, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 1, 2019
Washington, DC

Patricia H. Fitzgerald, Deputy 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