

FACTUAL HISTORY

On August 24, 2017 appellant, then a 66-year-old welder, filed an occupational disease claim (Form CA-2) for right hand/wrist carpal tunnel syndrome, due to factors of his federal employment including welding in various locations. He indicated that he first became aware of his condition on April 18, 2009, and first realized the condition was related to factors of his federal employment on April 18, 2017. Appellant did not stop work. On the reverse side of the claim form, the employing establishment noted that he first reported his condition to his supervisor on July 17, 2017. Appellant's supervisor indicated that while he had not seen any medical records for appellant's condition, he personally observed appellant's hands and noted they were "worked hard." He also noted having previously observed appellant using vibrating tools while working as a welder.

In a letter dated September 13, 2017, OWCP informed appellant of the type of evidence needed to support his claim and requested that he submit such evidence within 30 days. It particularly requested that he complete a questionnaire describing the employment activities he believed caused or contributed to his condition. OWCP also advised appellant to submit a narrative medical report from his physician, which included a specific diagnosis and an opinion on causal relationship.

Appellant did not provide a response to the questionnaire.

OWCP received records from the employing establishment to include: a notification of personnel action (Standard Form 50); a welder job summary; and a portion of a certificate of medical examination pertaining to the functional requirements and environmental factors involved to perform the duties of a welder.

In an April 18, 2017 report, Leslie B. Schoneman, a physician assistant, noted that appellant had symptoms consistent with bilateral peripheral neuropathy and also likely bilateral carpal tunnel syndrome. She explained that "both of these symptoms are likely related to your diabetes." Ms. Schoneman also noted that appellant's primary care physician previously diagnosed bilateral carpal tunnel syndrome in 2009. She explained that the work causality was unclear and could not support this claim. Ms. Schoneman commented that it was more likely that appellant's condition was not work related.

Dr. Jenny Amani, a family medicine specialist, completed an April 18, 2017 duty status report (Form CA-17). She noted "ongoing worsening bilateral hand pain with numbness and tingling in first three fingers of both hands."

By decision dated October 26, 2017, OWCP denied appellant's claim finding that he failed to establish fact of injury as appellant had not described in detail the employment factors he believed either caused or contributed to his condition. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including 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 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

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁶

ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish an injury in the performance of duty.

Appellant alleged that he developed a right hand condition due to “weld[ing] in various location[s].” However, he did not otherwise describe his specific duties as a welder that he believed either caused or contributed to his right hand condition. On September 13, 2017 OWCP advised appellant of the need for additional factual information regarding his alleged right hand injury, but he did not respond to its factual questionnaire or otherwise provide a narrative describing the implicated factors of his federal employment.

An employee’s statement as to how the injury occurred is of great probative value and will stand unless refuted by strong or persuasive evidence.⁷ However, in this instance appellant did not provide a statement as to how the injury occurred. As noted, he bears the burden of submitting a factual statement identifying employment factors alleged to have caused or contributed to the

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 *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *C.C.*, Docket No. 10-2054 (issued July 8, 2011).

presence or occurrence of the disease or condition.⁸ Accordingly, appellant has not established an injury in the performance of duty.

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 an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the October 26, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 24, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

⁸ See *supra* note 6.