

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

R.P., Appellant)	
)	
and)	Docket No. 19-0743
)	Issued: September 20, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Norwood, MA, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 11, 2019 appellant filed a timely appeal from a January 25, 2019 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 over the merits of this case.²

ISSUE

The issue is whether appellant has met his burden of proof to establish anxiety causally related to the accepted December 7, 2018 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the January 25, 2019 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 December 7, 2018 appellant, then a 49-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging a panic/anxiety attack when on his mail route, he experienced trouble breathing and felt numbness in his limbs while in the performance of duty that same day. He stopped work on December 7, 2018.

Appellant was treated by Dr. Michael Regan, Board-certified in emergency medicine, who in a work release form dated December 7, 2018 advised that appellant could return to work without restrictions on December 10, 2018.

On December 10, 2018 the employing establishment challenged appellant's claim and submitted a statement from his postmaster, K.C. On December 8, 2018, K.C. indicated that on December 7, 2018 appellant sent a text message noting that he needed help on his mail route because he was having trouble breathing. He located appellant on his mail route and went to his location at Tasos Euro Café where he found appellant being taken by ambulance to the local hospital where he was diagnosed with panic attack and anxiety. Appellant was treated and released. K.C. reported that appellant did not indicate to him or any other supervisor that he was feeling stress from working as a letter carrier and appellant showed no signs of stress on the morning of the incident or days leading up to the incident. He asserted that there is no evidence that appellant's condition was brought on by anything related to the performance of his duties.

By development letter dated December 14, 2018, OWCP informed appellant that additional evidence was needed in support of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received a discharge summary from Dr. Regan dated December 7, 2018, who noted that appellant had a panic attack and was prescribed anxiety medication.

In response to an OWCP questionnaire appellant recounted that on December 7, 2018 he was delivering mail on Ridgewood Avenue when he experienced shortness of breath, a racing heart, and fluttering sensation in his chest. Appellant reported notifying the employing establishment by text of his condition and then walked to Taso's Euro Café. He reported that his hands and face became numb and he felt like he was going to pass out. Appellant indicated that the staff at Taso's Euro Café witnessed his condition and the restaurant owner called 911. He reported the immediate effects of the condition included trouble breathing and heart palpitations. Appellant reported an occasional fluttering sensation in his chest prior to the injury, but he had not experienced trouble breathing or a racing heartbeat.

In a statement dated December 27, 2018, appellant indicated that his postmaster did not go to the hospital to check on him or bring him paperwork, but challenged his claim before he knew the diagnosis. He noted that the letter carrier position was stressful especially during the holidays. Appellant asserted that his condition occurred on the job and the trip to the hospital and emergency room visit should be covered by OWCP.

By decision dated January 25, 2019, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that his diagnosed anxiety was causally related to the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,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 establish an emotional condition in the performance of duty, a claimant must submit: (1) factual evidence identifying an employment factor or incident alleged to have caused or contributed to his or her claimed emotional condition; (2) medical evidence establishing that he or she has a diagnosed emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the accepted compensable employment factors are causally related to the diagnosed emotional condition.⁷

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁸ 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.⁹ 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.¹⁰

³ *Supra* note 1.

⁴ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *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 *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *See S.K.*, Docket No. 18-1648 (issued March 14, 2019); *M.C.*, Docket No. 14-1456 (issued December 24, 2014); *Debbie J. Hobbs*, 43 ECAB 135 (1991); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

⁸ *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *L.D.*, *id.*; *see also Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish anxiety causally related to the accepted December 7, 2018 employment incident.

Appellant submitted a work release form dated December 7, 2018 from Dr. Regan, who advised that appellant could return to work without restrictions on December 10, 2018. Similarly, a December 7, 2018 discharge summary from Dr. Regan noted that appellant had a panic attack and prescribed anxiety medication. His reports are insufficient to establish the claim as the physician did not provide a history of injury¹¹ or specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.¹²

As noted, part of appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship between the employment and the diagnosed condition. The record contains no such medical evidence. Because appellant has not submitted reasoned medical evidence explaining how and why his trouble breathing, limb numbness, and a panic attack and anxiety was employment related, he has not met his burden of proof.

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 anxiety causally related to the accepted December 7, 2018 employment incident.

¹¹ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

¹² *L.B.*, Docket No. 18-0533 (issued August 27, 2018) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *A.D.*, 58 ECAB 149 (2006); Docket No. 06-1183 (issued November 14, 2006).

ORDER

IT IS HEREBY ORDERED THAT the January 25, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 20, 2019
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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