

and left thumb when he lost his balance and fell from a pallet jack while in the performance of duty.

In an October 30, 2017 decision, OWCP accepted that the August 30, 2017 incident occurred, as alleged; however, it denied his claim, finding that the medical evidence of record was insufficient to establish that his diagnosed left wrist and left thumb fractures were causally related to the accepted August 30, 2017 employment incident.

On November 5, 2018 appellant requested reconsideration. He submitted arguments and forwarded additional evidence, which included operative reports, physical therapy reports, maintenance records, and witness statements.

By decision dated December 18, 2018, OWCP denied appellant's request for reconsideration of the merits of his claim. It found the request was untimely filed and failed to demonstrate clear evidence of error.

The Board finds that OWCP properly determined that appellant's November 5, 2018 request for reconsideration was untimely filed. The last merit decision was issued on October 30, 2017 and OWCP received appellant's request for reconsideration on November 5, 2018. As appellant's request for reconsideration was not received by OWCP within the one-year time limitation, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.³

The Board finds, however, that the case is not in posture for decision because OWCP did not make any findings regarding the evidence submitted in support of the reconsideration request.⁴ OWCP summarily denied appellant's request for reconsideration without complying with the review requirements of FECA and its implementing regulations.⁵ Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.⁶ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons. As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁷

³ 20 C.F.R. § 10.607(b); *see R.T.*, Docket No. 19-0604 (issued September 13, 2019); *see Debra McDavid*, 57 ECAB 149 (2005).

⁴ *C.R.*, Docket No. 17-0964 (issued September 9, 2019).

⁵ *Id.*; *see also* 20 C.F.R. § 10.607(b); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.3d (February 2016).

⁶ 5 U.S.C. § 8124(a).

⁷ Federal (FECA) Procedure Manual, *supra* note 5 at Chapter 2.1400.5 (February 2013).

The case must therefore be remanded to OWCP for an appropriate decision on appellant's untimely reconsideration request, which describes the evidence submitted on reconsideration and provides detailed reasons for accepting or rejecting the reconsideration request.⁸

IT IS HEREBY ORDERED THAT the December 18, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for action consistent with this order of the Board.

Issued: April 30, 2020
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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

⁸ *C.R.*, *supra* note 4; *see also M.L.*, Docket No. 09-0956 (issued April 15, 2010).