

FACTUAL HISTORY

On January 27, 2020 appellant, then a 42-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on January 24, 2020 he injured his right foot in the prison's day room while in the performance of duty. He noted that he was more active than normal on that day, but could not identify the specific event that caused the injury. On the reverse side of the claim form the employing establishment acknowledged that appellant was injured in the performance of duty. Appellant did not stop work.

In support of his claim, appellant submitted a January 25, 2020 emergency room discharge summary from Mary McCampbell, a physician assistant. The summary provided discharge instructions related to using crutches, taking narcotic medication, and wearing podiatric shoes. It also contained a diagnosis for a sprained toe and foot pain/contusion.

Appellant submitted a photograph of his right foot that was received by OWCP on January 27, 2020.

In a January 31, 2020 attending physician's report (Form CA-20), Ms. McCampbell noted that appellant experienced right foot pain, but was unsure about its cause. She diagnosed acute contusion of the right foot and right toe sprain. Ms. McCampbell indicated that appellant was able to resume regular-duty work on February 3, 2020.

On February 3, 2020 appellant filed a wage-loss compensation claim (Form CA-7) and requested leave without pay (LWOP) for disability from work for the period January 25 through February 3, 2020.

In a development letter dated February 7, 2020, OWCP indicated that when appellant's claim was first received it appeared to be a minor injury that resulted in minimal or no lost time from work and, based on these criteria and because the employing establishment did not controvert continuation of pay or otherwise challenge the case, payment of a limited amount of medical expenses was administratively approved. It explained that it had reopened the claim for consideration because a claim for wage-loss compensation had been received. OWCP requested additional factual and medical evidence in support of his claim and provided a questionnaire for his completion. It afforded appellant 30 days to submit the necessary evidence. No additional evidence was received.

By decision dated March 11, 2020, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the incident occurred on January 24, 2020, as alleged. 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 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

³ *Supra* note 1.

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. 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 allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.⁸

When an employee claims an injury in the performance of duty, the employee must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged, and that such event, incident or exposure caused an injury.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that an incident occurred in the performance of duty on January 24, 2020, as alleged.

In his Form CA-1, appellant reported that on January 24, 2020 he injured his right foot while working inside his prison's dayroom. He noted that he was more active than normal on that day, but could not identify the specific event that allegedly caused the injury. Appellant did not submit a detailed account of the alleged injury or any additional corroborating factual evidence describing how he sustained an injury on January 24, 2020. The Board has found that such a vague recitation of facts does not support a claimant's allegation that a specific event occurred to cause a work-related injury.¹⁰

In a development letter dated February 7, 2020, OWCP informed appellant that the factual evidence of record was insufficient to establish that the January 24, 2020 employment incident occurred as alleged. It requested that appellant complete an attached questionnaire and provide a detailed factual description of the alleged employment incident. Appellant, however, did not respond to OWCP's development letter. He neither presented evidence regarding the specific mechanism of injury, as required in a claim for traumatic injury, nor did he allege that he

⁴ *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ See *E.R.*, Docket No. 18-1235 (issued April 2, 2019).

¹⁰ *M.C.*, Docket No. 18-1278 (issued March 7, 2019); *M.B.*, Docket No. 11-1785 (issued February 15, 2012).

experienced a specific event, incident, or exposure at a definite time, place, and in a definite manner.¹¹ As appellant has not provided a factual statement describing in detail the January 24, 2020 employment incident alleged to have caused the claimed conditions, the Board finds that he has not met his burden of proof to establish that he experienced the employment incident at the time, place, and in the manner alleged, or that it caused an injury.¹²

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 that an incident occurred in the performance of duty on January 24, 2020, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the March 11, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 21, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹¹ *Id.*; see also *Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002).

¹² *M.C.*, *supra* note 10; *S.J.*, Docket No. 17-1798 (issued February 23, 2018).