



## ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted February 7, 2019 employment incident.

## FACTUAL HISTORY

On February 7, 2019 appellant, then a 47-year-old deportation officer, filed a traumatic injury claim (Form CA-1) alleging that he was exposed to tuberculosis (TB) that day while in the performance of duty. He explained that he was transporting a detainee that had active TB while in the confined space of a government vehicle for several hours. Appellant did not stop work.

In an attached witness statement of even date, appellant's coworker, G.G., provided that he was present with appellant and the detainee on February 7, 2019. He noted that the exposure started at 8:45 a.m. and continued for several hours during the drive to Tulsa, Oklahoma.

In a February 11, 2019 development letter, OWCP notified appellant that the information he submitted was insufficient to support his claim. It advised him of the type of factual and medical evidence required to establish his traumatic injury claim and provided a factual questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In response, appellant provided a February 11, 2019 medical report from Dr. Christian Nielsen, Board-certified in preventative medicine. Dr. Nielsen reported that appellant arrived at his office after being exposed to a detainee with active TB for several hours. He noted that appellant had no positive TB screenings in the past and that he presented with no current symptoms despite exposure.

In a February 13, 2019 medical report from a follow-up appointment with Dr. Nielsen, he again noted that appellant had no symptoms.

By decision dated March 22, 2019, OWCP denied appellant's traumatic injury claim, finding that he had not submitted medical evidence containing a medical diagnosis "in connection with the claimed event." It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *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).

the employment injury.<sup>5</sup> 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.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted February 7, 2019 employment incident.

The case record supports that appellant was exposed to a detainee with active TB while in the performance of duty on February 7, 2019. The Board finds, however, that he did not establish his traumatic injury claim because the medical evidence did not establish that the accepted employment incident caused or contributed to a diagnosed medical condition.

In Dr. Nielsen's February 11 and 13, 2019 medical reports, he provided that appellant was exposed to TB after spending several hours exposed to a detainee with active TB. Although he identified the employment incident, Dr. Nielsen did not address whether this exposure resulted in a diagnosed medical condition. Lacking a firm diagnosis and rationalized medical opinion regarding causal relationship, his medical reports are of limited probative value.<sup>8</sup>

As appellant has not submitted rationalized medical evidence relating a medical condition causally related to the accepted February 7, 2019 employment incident, the Board finds that he has not met his burden of proof.

On appeal appellant contends that OWCP should pay for his tuberculosis screening. Simple exposure to a workplace hazard, such as an infectious agent, does not constitute a work-related injury entitling an employee to medical treatment under FECA unless the employee has sustained an identifiable injury or medical condition as a result of that exposure.<sup>9</sup> Where there is actual or probable exposure to a known contaminant due to an injury, OWCP can authorize

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<sup>5</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *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).

<sup>7</sup> *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

<sup>8</sup> *J.F.*, Docket No. 18-0904 (issued November 27, 2018); *see D.S.*, Docket No. 18-0061 (issued May 29, 2018).

<sup>9</sup> *E.M.*, Docket No. 12-1678 (issued January 7, 2013).

treatment.<sup>10</sup> In this case, the medical evidence from Dr. Nielsen did not establish that appellant sustained any disease or was otherwise exposed to a known contaminant due to the February 7, 2019 employment incident. As a result, appellant is not entitled to reimbursement for his medical expenses.

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 a medical condition causally related to the accepted February 7, 2019 employment incident.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 22, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 11, 2020  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>10</sup> See *J.F.*, Docket No. 09-1061 (issued November 17, 2009). See also 20 C.F.R. §§ 10.303(a) and 10.313(b).