

on October 17, 2019. On the reverse side of the claim form, the employing establishment confirmed that appellant had hit a deer with his government vehicle.

Appellant submitted October 15, 2019 discharge instructions with an illegible signature, which provided treatment instructions related to musculoskeletal pain.

Appellant also submitted a position description and summary of his duties as an airfield manager.

In a development letter dated October 31, 2019, OWCP advised appellant that it required additional factual and medical evidence to establish his claim. It attached a questionnaire, requesting that he provide a detailed description of the employment incident believed to have contributed to his alleged injury, including a description of the exact medical condition he was claiming. OWCP also requested that he submit a narrative medical report from his physician, which contained a detailed description of findings and diagnoses, explaining how the reported incident caused or aggravated his medical condition. It afforded appellant 30 days to respond.

In an October 15, 2019 medical report, Dr. Matthew Capalbo, Board-certified in emergency medicine, evaluated appellant after his vehicle reportedly struck a deer. On examination he noted tenderness and spasms in appellant's cervical spine and neck. Dr. Capalbo diagnosed muscle spasms of the head and neck, neck pain and a backache.

Appellant submitted three October 15, 2019 diagnostic reports from Dr. Neville Wichman, a Board-certified diagnostic radiologist. In x-rays of appellant's lumbar, lateral, and thoracic spine, Dr. Wichman found no evidence of an acute injury. In a computerized tomography (CT) scan of his cervical spine, he also found no evidence of an acute injury.

Appellant provided an October 15, 2019 motor vehicle accident report in which described the employment incident caused by a deer running in front of his vehicle, and colliding with it.

By decision dated December 5, 2019, OWCP denied appellant's traumatic injury claim, finding that he had failed to submit medical evidence containing a diagnosis in connection with his injury. 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 FECA² 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,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

² *Supra* note 1.

³ *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.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 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.⁶

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition causally related to the accepted October 15, 2019 employment incident.

In Dr. Capalbo's October 15, 2019 medical report, he evaluated appellant after his vehicle struck a deer and diagnosed muscle spasms of the head and neck, neck pain and a backache as a result. The Board has found that pain and spasm are symptoms and not a specific medical diagnosis.⁷ The Board has held that a medical report lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship is of no probative value.⁸ For these reasons, Dr. Capalbo's medical report is insufficient to establish appellant's burden of proof.

Appellant also submitted October 15, 2019 diagnostic reports in which Dr. Wichman performed x-rays and a CT scan of appellant's spine and found no evidence of an acute injury. As stated above, medical evidence lacking a firm diagnosis is of no probative value.⁹ For this reason, Dr. Wichman's medical evidence is insufficient to meet appellant's burden of proof.

The remaining medical evidence consisted of October 15, 2019 discharge instructions with an illegible signature. The Board has consistently held that a report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.¹⁰

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 *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).

⁶ *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)

⁷ *M.H.*, Docket No. 18-0873 (issued December 18, 2019); *J.S.*, Docket No. 19-0863 (issued November 4, 2019); *V.B.*, Docket No. 19-0643 (issued September 6, 2019).

⁸ *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

⁹ *Id.*

¹⁰ *K.C.*, Docket No. 18-1330 (issued March 11, 2019).

The Board finds that appellant has not submitted rationalized, probative medical evidence sufficient to establish a diagnosed medical condition causally related to his October 15, 2019 employment incident.¹¹ Appellant, therefore, 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 a diagnosed medical condition causally related to the accepted October 15, 2019 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the December 5, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 13, 2020
Washington, DC

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

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

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

¹¹ See *T.J.*, Docket No. 18-1500 (issued May 1, 2019); see *D.S.*, Docket No. 18-0061 (issued May 29, 2018).