

By decision dated October 29, 2018, OWCP denied appellant's claim finding that the incident occurred as alleged, but that appellant had not submitted evidence containing a medical diagnosis in connection with the accepted employment incident.

Whether an injury occurs in the performance of duty is a preliminary issue before the merits of the claim are adjudicated.¹ The Board finds that the October 29, 2018 decision failed to make adequate findings on the element of performance of duty. The employing establishment controverted the claim noting that the alleged incident occurred after appellant's shift had ended and off premises. This controversion clearly raises the issue of whether the alleged injury occurred in the performance of duty.

In deciding matters pertaining to a given claimant's entitlement to compensation benefits, OWCP is required by statute and regulation to make proper findings of fact.² OWCP's procedures further specify that a final decision of OWCP should be clear and detailed so that the reader understands the reasons for the disallowance of the benefit.³ These requirements are supported by Board precedent.⁴

As OWCP failed to make findings of fact and provide a statement of reasons on the issue of performance of duty, the case will be remanded to OWCP. Following any further development deemed necessary, it shall issue a *de novo* decision.

¹ *T.H.*, Docket No. 17-0747 (issued May 14, 2018); *P.L.*, Docket No. 16-0631 (issued August 9, 2016); *see also M.D.*, Docket No. 17-0086 (issued August 3, 2017).

² 5 U.S.C. § 8124(a) provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation. 20 C.F.R. § 10.126 provides in pertinent part that the final decision of OWCP shall contain findings of fact and a statement of reasons.

³ *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

⁴ *See James D. Boller, Jr.*, 12 ECAB 45, 46 (1960); *see also R.B.*, Docket No. 16-1696 (issued September 7, 2017).

IT IS HEREBY ORDERED THAT the October 29, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further action consistent with this order of the Board.

Issued: January 6, 2020
Washington, DC

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

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

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