

**United States Department of Labor
Employees' Compensation Appeals Board**

_____)	
J.W., Appellant)	
)	
and)	Docket No. 20-0155
)	Issued: May 18, 2020
SOCIAL SECURITY ADMINISTRATION,)	
Chicago, IL, Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On October 26, 2019 appellant filed a timely appeal from a July 19, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition causally related to the accepted March 30, 2018 employment incident.

FACTUAL HISTORY

On April 6, 2018 appellant, then a 34-year-old claim specialist, filed a traumatic injury claim (Form CA-1) alleging that on March 30, 2018 he sustained an injury to his back when he attempted to sit down in a chair, but the chair slipped from under him causing him to fall to the ground while in the performance of duty. He explained that he hit the right side of his back on the

¹ 5 U.S.C. § 8101 *et seq.*

ground when he fell which caused swelling and tightness in his back. Appellant stopped work on that day.

In support of his claim, appellant submitted a continuation of pay nurse report dated April 18, 2018, noting that he stopped work on March 30, 2018 as he was totally disabled.

In an April 19, 2018 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of evidence necessary to establish his claim and afforded him 30 days to submit the necessary evidence.

In an April 3, 2018 work restriction note, Dr. Thomas D. Daum, Board-certified in family medicine, reported that appellant had an unspecified illness and excused him from regular-duty work until April 18, 2018.

In an April 16, 2018 report, Dr. Jennifer Wise, a chiropractor, noted that appellant was under her care and held him off work for the period April 16 through May 13, 2018. In an April 23, 2018 report, she noted that he was treated for injuries sustained at work on March 30, 2018. Dr. Wise indicated that appellant presented with low back pain with radiculopathy and was unable to perform his work duties, as he was unable to sit and had difficulty moving from one position to another and walking without assistance.

By decision dated May 31, 2018, OWCP denied appellant's claim. It found that while he had established that the employment incident occurred as alleged, the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted March 30, 2018 employment incident. Thus, OWCP concluded that the requirements had not been met to establish an injury as defined by FECA.

On April 23, 2019 appellant requested reconsideration. In support of his request, he submitted a March 30, 2018 report from Dr. Maura Dickinson, Board-certified in emergency medicine, who noted that he presented to the emergency department with complaints of back and neck pain. Appellant reported that he slipped from a chair at work and fell onto his buttocks which aggravated his back. Dr. Dickinson conducted a physical examination and found no numbness or tingling down appellant's legs. She noted an impression of back pain and contusion. Dr. Dickinson further reviewed his lumbosacral spine x-rays of the same date, which revealed no abnormal lumbar spine findings and diagnosed back pain, including differential diagnoses "of fracture vs sprain vs contusion."

In an April 19, 2019 statement, appellant noted that he submitted a hospital report which showed that he suffered from a contusion from his fall. He asserted that his back was swollen for weeks and required massage therapy with a chiropractor.

By decision dated July 19, 2019, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including 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 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 fact of injury has been established. There are two components involved in establishing 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 component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁶

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.⁸

ANALYSIS

The Board finds that appellant has met his burden of proof to establish the diagnosed medical condition of a back contusion. The Board further finds, however, that the case is not in posture for a decision as to whether his diagnosed contusion is causally related to the accepted March 30, 2018 employment incident.

² *Id.*

³ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Dr. Dickinson, in her March 30, 2018 report, described the accepted March 30, 2018 employment incident, provided examination findings, and noted an impression of a contusion and a differential diagnosis of “fracture vs sprain vs contusion.” Therefore, the Board finds that the evidence of record establishes the diagnosis of a back contusion.

OWCP has not reviewed the medical evidence of record on the issue of whether the established diagnosis of back contusion is causally related to the accepted employment incident. Therefore, the case will be remanded to OWCP for consideration of the medical evidence on the issue of causal relationship. Following such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish the diagnosed medical condition of a back contusion. The Board further finds that the case is not in posture for a decision as to whether his diagnosed back contusion is causally related to the accepted March 30, 2018 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 19, 2019 decision of the Office of Workers’ Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: May 18, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees’ Compensation Appeals Board

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