

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

A.O., Appellant

and

**U.S. POSTAL SERVICE, MORGAN
PROCESSING & DISTRIBUTION CENTER,
New York, NY, Employer**

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**Docket No. 21-0312
Issued: July 15, 2021**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 21, 2020 appellant filed a timely appeal from a November 10, 2020 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 her burden of proof to establish disability from work commencing July 27, 2020, causally related to her accepted April 30, 2020 employment injury.

FACTUAL HISTORY

On May 17, 2020 appellant, then a 64-year-old postal employee, filed a traumatic injury claim (Form CA-1) alleging that on April 30, 2020 she sustained a fracture of the distal radius with internal fixation of one or more fragments and tenolysis of a single flexor of the left wrist when

¹ 5 U.S.C. § 8101 *et seq.*

she tripped on a floor mat and fell onto a belt while in the performance of duty. She stopped work on the date of injury and underwent surgery on May 13, 2020.

On July 8, 2020 OWCP accepted appellant's claim for fracture of the left distal radius.

On August 21, 2020 appellant filed a claim for compensation (Form CA-7) for disability from work for the period July 27 to August 14, 2020. On the reverse side of the claim form, the employing establishment indicated that she stopped work on April 30, 2020 and received continuation of pay (COP) from May 1 until June 14, 2020.

In a restriction form, Dr. Kim advised that appellant was disabled from work until August 10, 2020. He advised that upon her return to work she could perform light duties with restrictions.

OWCP, in an August 28, 2020 development letter, informed appellant that additional evidence was needed to establish her claim for compensation for total disability from work commencing July 27, 2020. It afforded appellant 30 days to submit the necessary evidence.

On September 4 and 11, 2020 appellant filed additional CA-7 forms claiming compensation for disability from work for the period August 15 through September 11, 2020.

OWCP subsequently received an April 30, 2020 care report summary with illegible signatures. The report noted a history of appellant's injury on April 30, 2020 and indicated that she was evaluated and treated with a left wrist sling and swathe.

By decision dated November 10, 2020, OWCP denied appellant's claims for disability for the period commencing July 27, 2020. It noted that she was paid COP beginning May 1, 2020 while she claimed compensation until September 11, 2020. OWCP further noted that the medical evidence of record indicated that appellant was disabled from work commencing May 5, 2020 and that she could return to work with restrictions on August 10, 2020. It determined that she was not entitled to compensation as the medical evidence of record was insufficient to establish that she was totally disabled from work during the claimed period as a result of her accepted employment-related injury.

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 any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled

² *Id.*

³ See *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

from work as a result of the accepted employment injury.⁴ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.⁵

Under FECA, the term disability means an incapacity because of an employment injury, to earn the wages the employee was receiving at the time of the injury.⁶ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, prevent the employee from continuing in his or her employment, he or she is entitled to compensation for any loss of wages.⁷

To establish causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such causal relationship.⁸ The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the claimed disability and the accepted employment injury.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work commencing July 27, 2020, causally related to her accepted April 30, 2020 employment injury.

In support of her claim, appellant submitted an undated certificate from Dr. Kim who placed her off work and advised that she could return to light-duty work with restriction on August 10, 2020. Although Dr. Kim suggested that she was totally disabled, he did not provide an explanation for this opinion. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹⁰ Thus, Dr. Kim's report is insufficient to establish appellant's claim for compensation.

Appellant also submitted an April 30, 2020 care report summary with illegible signatures, which noted a history of her accepted April 30, 2020 employment injury and that she was evaluated and treated with a left wrist sling and swathe. The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot

⁴ See *L.F.*, Docket No. 19-0324 (issued January 2, 2020); *T.L.*, Docket No. 18-0934 (issued May 8, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

⁵ See 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

⁶ *Id.* at § 10.5(f); see e.g., *G.T.*, 18-1369 (issued March 13, 2019); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

⁷ *G.T.*, *id.*; *Merle J. Marceau*, 53 ECAB 197 (2001).

⁸ See *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

⁹ *T.S.*, Docket Nos. 20-1177 and 20-1296 (issued May 28, 2021); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

¹⁰ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

be identified as a physician.¹¹ Accordingly, this report has no probative value and is insufficient to establish the claim.

As appellant has not submitted rationalized medical evidence establishing causal relationship between her claimed period of disability and the accepted April 30, 2020 employment injury, the Board finds that she has not met her 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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish disability from work commencing July 27, 2020, causally related to her accepted April 30, 2020 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the November 10, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 15, 2021
Washington, DC

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

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

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

¹¹ *Y.D.*, Docket No. 20-0097 (issued August 25, 2020); *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).