United States Department of Labor
Employees' Compensation Appeals Board

D.T., Appellant	)	
and	)	**Docket No. 21-0091**
	)	**Issued: May 21, 2021**
U.S. POSTAL SERVICE, POST OFFICE, Pittsburgh, PA, 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
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 19, 2020 appellant filed a timely appeal from a September 1, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 medical condition causally related to the accepted July 20, 2018 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board.[2] The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On August 10, 2018 appellant, then a 22-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that on July 20, 2018 he sustained injuries to his head and knees, and a broken maxilla on the right side of his mouth, when he fell to the floor and hit his face while in the performance of duty. He stopped work on July 20, 2018 and returned to work on August 14, 2018.

In an August 6, 2018 medical note, Dr. Marianna Vinokur, a resident physician, advised that appellant may return to work on August 7, 2018.

In an August 10, 2018 statement, appellant explained that on July 20, 2018 he fell and hit his head and face on the workroom floor. He related that he came out of the bathroom and did not remember how he injured his head and face or how the impact caused his tooth avulsion. The only thing appellant recalled was waking up in an ambulance on his way to the hospital after the incident.

C.S., a customer service manager, recounted in an August 22, 2018 statement that on July 20, 2018 appellant was involved in an incident at the employing establishment. He indicated that, according to appellant and witnesses, appellant was walking on the workroom floor when he "went into a seizure" and fell to the floor. The fall resulted in injuries to appellant's face and mouth when his head hit the concrete floor. The paramedics were immediately called and he was transported to the hospital.

In a letter of even date, the employing establishment controverted appellant's claim, noting that appellant exited the bathroom and fell to the floor, landing on his face. It contended that he submitted no evidence to establish fact of injury or causal relationship.

In an August 23, 2018 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. OWCP afforded him 30 days to submit the necessary evidence.

In response, appellant submitted a September 12, 2018 statement in which he explained that on the date of the alleged employment incident he had just finished putting up the delivery point sequence and using the restroom. The last thing he remembered was leaving the restroom and later waking up in an ambulance outside of the work building. All appellant recalled was falling on his face and the impact of the fall causing him to lose a tooth and break a bone in his face near his right upper lip. He also stated that he had no other similar disabilities or symptoms prior to his injury.

By decision dated October 3, 2018, OWCP denied appellant's claim, finding that he had not submitted medical evidence containing a medical diagnosis in connection with his injury. It

[2] Docket No. 19-1486 (issued January 17, 2020).

concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

OWCP continued to receive evidence. In a September 26, 2018 attending physician's report (Form CA-20), Dr. James Jones, Board-certified in family medicine, diagnosed a new onset seizure and a tooth avulsion in relation to the July 20, 2018 employment incident. When responding to the question of whether he believed appellant's conditions were caused or aggravated by an employment activity, Dr. Jones noted that it was "not applicable."

On November 1, 2018 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Appellant submitted a July 20, 2018 after visit summary indicating that appellant was seen by Dr. Brent Rau, Board-certified in emergency medicine. The note diagnosed a seizure and a tooth avulsion and recommended that he follow up with his primary care physician, a dentist, and a neurologist for further evaluation.

Appellant submitted an August 13, 2018 after visit summary in which Dr. Jones saw appellant for a new onset of seizure and dental trauma.

A telephonic hearing was held on February 26, 2019.

Appellant submitted an unsigned July 20, 2018 diagnostic report where he underwent a computerized tomography (CT) scan of his facial bones that found a fracture at the maxilla along the alveolar ridge with loosening on the right canine tooth.

In an August 8, 2018 diagnostic report, Dr. Troy Desai, a Board-certified neurologist, conducted an electroencephalogram (EEG), finding that it was normal.

By decision dated April 8, 2019, OWCP affirmed the October 3, 2018 decision, as modified. It accepted that the July 20, 2018 incident occurred as alleged and that there was a diagnosed seizure and tooth avulsion. However, OWCP found that appellant failed to establish that the alleged injury occurred while in the performance of duty. It found that appellant's seizure and fall were due to an idiopathic incident, which was considered to be a personal nonoccupational pathology without intervention or contribution by a factor of employment and, therefore, the injury was not considered compensable.

On July 1, 2019 appellant appealed to the Board. By decision dated January 17, 2020, the Board determined that the case was not in posture for decision and remanded the case to OWCP for further development regarding whether appellant suffered an idiopathic fall or an unexplained fall.

On June 17, 2020 OWCP referred appellant, with a statement of accepted facts (SOAF) and a copy of the medical record, to Dr. Charles Gennaula, a Board-certified neurologist, for a second opinion evaluation to determine whether he suffered a seizure, which caused him to fall and strike his face or whether the fall caused him to have the seizure.

In his August 3, 2020 medical report, Dr. Gennaula reviewed the SOAF, history of injury and medical evidence of record, including that appellant's fall resulted in damage to his tooth in the form of a tooth avulsion. He noted that appellant had no history of seizure or prior losses of consciousness and that the record seemed to indicate that he "simply fell and had a seizure."[3] Dr. Gennaula provided that, based on review of the record provided, appellant's description of the events and the witnesses available, that there was no clear evidence to suggest that there was any trip and fall event. He opined that it appeared as if appellant lost consciousness and fell to the ground and noted convulsive activity witnessed with the fall. Dr. Gennaula indicated that there did not appear to be any clear precipitated underlying event that the fall in regard to a trip and fall, a particular stressor at work or any potential causes for his sudden loss of consciousness. He reasoned that, based on the information available to him, the incident appeared to be a primary event not directly related to his work, explaining that appellant suffered a "fall/loss of consciousness with likely etiology being a seizure event that was unprovoked by any circumstances at his work." Dr. Gennaula concluded that appellant suffered a seizure and fell to the floor and, based on FECA's definition of causation, there did not appear to be any direct causation of the event based on the workplace.

By decision dated September 1, 2020, OWCP accepted that appellant fell on July 20, 2018 while in the performance of duty as alleged. It found that "[t]here did not appear to be any clear underlying event that precipitated this event based on the records in regard to the trip and fall stressor or event that occurred in the workplace." However, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that his diagnosed medical conditions were causally related to the July 20, 2018 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 period of FECA,[4] 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.[5] 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.[6]

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first

[3] Appellant also informed Dr. Gennaula that he may have tripped on something, although he did not know what he tripped on.

[4] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[6] *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

component is whether the employee actually experienced the employment incident that allegedly occurred.[7] The second component is whether the employment incident caused a personal injury.[8]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[9] A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.[10] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[11]

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of FECA.[12] Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. The Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.[13] If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.[14]

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a tooth avulsion and facial fracture causally related to the accepted July 20, 2018 unexplained fall.

Appellant provided medical evidence from Dr. Jones and Dr. Rau who consistently diagnosed a tooth avulsion and dental trauma. He also submitted a July 20, 2018 diagnostic report

[7] *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[8] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[9] *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[10] *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

[11] *B.C.*, Docket No. 20-0221 (issued July 10, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

[12] *D.R.*, Docket No. 19-0954 (issued October 25, 2019); *H.B.*, Docket No. 18-0278 (issued June 20, 2018); *see Carol A. Lyles*, 57 ECAB 265 (2005).

[13] *H.B., id.; Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

[14] *H.B., supra* note 12; *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

where he underwent a computerized tomography (CT) scan of his facial bones that found a fracture at the maxilla along the alveolar ridge with loosening on the right canine tooth. This medical evidence was supported by Dr. Gennaula in his August 3, 2020 second opinion evaluation in which he noted appellant's July 20, 2018 fall resulted in damage to his tooth in the form of a tooth avulsion. In clear-cut traumatic injury claims, where the fact of injury is established and is clearly competent to cause the condition described (for instance, a worker falls from a scaffold and breaks an arm), a fully-rationalized medical opinion is not needed. The physician's diagnosis and an affirmative statement are sufficient to accept the claim.[15] The Board finds, therefore, that this evidence is sufficient to establish that appellant sustained a tooth avulsion and facial fracture on July 20, 2018. The case will, therefore, be remanded for payment of medical expenses and any attendant disability.

The Board further finds, however, that this case is not in posture for decision as to whether the medical evidence of record is sufficient to establish that appellant's seizure was causally related to his accepted July 20, 2018 injury.

Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.[16] Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.[17] As well, OWCP's procedures provide that the reasoning behind its evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.[18]

The Board finds that OWCP failed to properly explain the findings with respect to the issue presented so that appellant could understand the basis for the decision, *i.e.*, whether appellant's seizure was causally related to the accepted July 20, 2018 fall. The Board will, therefore, set aside OWCP's September 1, 2020 decision and remand the case for findings of fact and a statement of reasons, to be followed by a *de novo* decision.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a tooth avulsion and facial fracture causally related to the accepted July 20, 2018 unexplained fall. The Board further finds that the case is not in posture for decision as to whether appellant's seizure was causally related to the accepted injury.

[15] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3.d(1) (January 2013).

[16] 5 U.S.C. § 8124(a).

[17] 20 C.F.R. § 10.126.

[18] *Supra* note 15 at Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

ORDER

IT IS HEREBY ORDERED THAT the September 1, 2020 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: May 21, 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