

¹ 5 U.S.C. § 8101 *et seq.*

as a result was exposed to a bloodborne pathogen while in the performance of duty. On the reverse side of the claim form, the employing establishment acknowledged that he was injured in the performance of duty. Appellant did not stop work.

Appellant submitted a November 22, 2021 billing statement for bloodwork testing that occurred on August 19, 2021 and a position description dated June 4, 2020 describing his duties as a medical technician at the employing establishment.

OWCP received notification of personnel action forms (Standard Form (SF-50)) dated March 29 and September 25, 2021 from the employing establishment detailing appellant's employee and position information.

In a development letter dated November 30, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence. No response was received.

By decision dated January 12, 2022, OWCP denied appellant's traumatic injury claim, finding that he did not establish the factual component of his claim as he did not respond to its developmental letter. Consequently, it found that he had not met the requirements to establish an injury as defined by 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 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

² *Id.*

³ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 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).

time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁶

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action. The employee has not met his or her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on the employee's statements in determining whether a *prima facie* case has been established.⁷ An employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury in the performance of duty on August 19, 2021, as alleged.

Appellant has not provided sufficient detail to establish that a traumatic injury occurred in the performance of duty, as alleged.⁹ On his Form CA-1 he asserted that he sustained an exposure to a bloodborne pathogen as a result of a needle stick injury to his finger. OWCP could not determine, based upon appellant's vague statement, which finger he allegedly injured from the needle stick. Furthermore, appellant alleged that an exposure to a bloodborne pathogen caused the needle stick injury to his finger, but did not describe in detail how this incident occurred.

Appellant was subsequently provided an opportunity to submit evidence to establish how the alleged employment incident occurred. By development letter dated November 30, 2021, OWCP requested that he describe the factual circumstances of the incident and provided him with a development questionnaire for completion. The only explanation appellant provided pertaining to the alleged August 19, 2021 employment incident is a general and vague statement noted on his Form CA-1. Furthermore, he did not submit any other factual evidence to substantiate that the incident occurred in the performance of duty. By failing to describe the employment incident and any employment-related circumstances surrounding the workplace incident, appellant has not established that a traumatic injury occurred in the performance of duty on August 19, 2021, as alleged. Thus, the Board finds that he has not met his burden of proof.

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 *C.M.*, Docket No. 20-1519 (issued March 22, 2021); *Betty J. Smith*, 54 ECAB 174 (2002).

⁸ *See M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

⁹ *See J.W.*, Docket No. 19-0335 (issued July 2, 2019).

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 to establish a traumatic injury in the performance of duty on August 19, 2021, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the January 12, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 8, 2022
Washington, D.C.

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

A handwritten signature in black ink, appearing to read "J. D. McGinley". The signature is fluid and cursive, with the first and last names being more prominent.

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board