United States Department of Labor
Employees' Compensation Appeals Board

B.J., Appellant	)	
and	)	**Docket No. 22-0817**
	)	**Issued: October 5, 2022**
U.S. POSTAL SERVICE, POST OFFICE, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On May 2, 2022 appellant filed a timely appeal from a January 25, 2022 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 traumatic injury in the performance of duty on November 27, 2021, as alleged.

FACTUAL HISTORY

On December 10, 2021 appellant, then a 56-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on November 27, 2021 he injured his right index finger when a machine roller that he was repairing struck his hand while in the performance of duty. He

[1] 5 U.S.C. § 8101 *et seq*.

explained that he cut his finger as he was replacing a belt on a machine and that he subsequently received seven stiches. On the reverse side of the claim form, the employing establishment acknowledged that appellant was injured in the performance of duty.

In a development letter dated December 21, 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. No additional evidence was received.

By decision dated January 25, 2022, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that a traumatic injury occurred in the performance of duty on November 27, 2021, as alleged. 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 FECA[2] 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. The first component is that 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. 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. An employee's statement alleging that

[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).

[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).

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.[7]

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a traumatic incident in the performance of duty on November 27, 2021, as alleged.

On his December 10, 2021 Form CA-1 appellant alleged that on November 27, 2021 he injured his right index finger when a machine roller that he was repairing struck his hand while in the performance of duty. He explained that he cut his finger as he was replacing a belt on a machine and that he subsequently received seven stiches. On the reverse side of the claim form, the employing establishment acknowledged that appellant was injured in the performance of duty.

Appellant's claim of a November 27, 2021 employment incident has not been refuted by strong or persuasive evidence. He has provided a consistent account of the time, place, and manner of injury, which was confirmed by the employing establishment. There are no discrepancies in the case record regarding appellant's claimed November 27, 2021 employment incident so as to cast serious doubt on the fact that the injury occurred on that date in the manner alleged.[8] The Board, thus, finds that the evidence of record is sufficient to establish that the employment incident occurred in the performance of duty on November 27, 2021 as alleged.

As appellant has established that the November 27, 2021 employment incident factually occurred as alleged, the question becomes whether the incident caused an injury.[9] As OWCP found that he had not established fact of injury, it has not evaluated the medical evidence. The Board will, therefore, set aside OWCP's January 25, 2022 decision and remand the case for consideration of the medical evidence of record.[10] After this and other 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 an incident in the performance of duty on November 27, 2021, as alleged. The Board further finds that the case is not in posture for decision regarding whether he has established an injury causally related to the November 27, 2021 accepted employment incident.

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

[8] *See N.A.*, Docket No. 21-0773 (issued December 28, 2021); *J.T.*, Docket No. 21-0561 (issued November 22, 2021); *M.C.*, *id.*; *D.B.*, *id*.

[9] *See M.H.*, Docket No. 20-0576 (issued August 6, 2020); *M.A.*, Docket No. 19-0616 (issued April 10, 2020); *C.M.*, Docket No. 19-0009 (issued May 24, 2019).

[10] *M.H.*, *id.*; *S.M.*, Docket No. 16-0875 (issued December 12, 2017).

ORDER

IT IS HEREBY ORDERED THAT the January 25, 2022 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: October 5, 2022
Washington, DC

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

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

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