

first became aware of her condition and realized its relation to her federal employment on October 30, 2021. Appellant did not stop work. OWCP assigned the claim OWCP File No. xxxxxx493.²

In a development letter dated January 3, 2022, OWCP informed appellant of the deficiencies of her claim. It explained the type of factual and medical evidence required, including a detailed factual description of the alleged employment factors, and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

Appellant subsequently submitted a January 3, 2022 report from Dr. Bruce T. Cohn, a Board-certified orthopedic surgeon, regarding appellant's lumbar and right hip pain. Dr. Cohn noted his examination of appellant's lumbar spine and hips and diagnosed lumbar spine sprain and right hip sprain.

In a development letter dated February 10, 2022, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding the accuracy of appellant's statements. It afforded the employing establishment 30 days to respond.

OWCP subsequently received a January 21, 2022 duty status report (Form CA-17) from Dr. Cohn, who related that appellant was injured due to the repetitiveness of lifting garbage cans. He diagnosed left shoulder sprain and released appellant for work, advising that she could lift up to 10 pounds.

In response to OWCP's February 10, 2022 development letter, the employing establishment submitted an undated offer of modified duty on which it listed responses to OWCP's questions. It indicated that appellant was required to lift heavy trash bags through the plant for several hours. The employing establishment noted that employees had been informed to ask for assistance when performing heavy lifting, the job had been modified, and that routes were rotated on a daily basis.

By decision dated April 1, 2022, OWCP denied appellant's occupational disease claim, finding that she had not established the implicated factors of her federal employment. Consequently, it concluded that she had not met the requirements to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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

² Appellant subsequently filed a Form CA-2 for an injury to her lower back and hip under OWCP File No. xxxxxx841. OWCP has administratively combined that claim with the current claim, OWCP File No. xxxxxx493, with the latter serving as the master file.

³ *Supra* note 1.

limitation 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 establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁷

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty, as alleged.

In her Form CA-2, appellant indicated that she injured her left shoulder due to working and continually lifting heavy garbage cans. OWCP, in its January 3, 2022 development letter, requested that she complete an attached questionnaire and provide a detailed factual description of the alleged employment factors. Appellant, however, did not respond to OWCP's January 3, 2022 development questionnaire.

As appellant has not provided a sufficient description of the alleged employment factors, the Board finds that she has not met her burden of proof to establish that an injury occurred in the performance of duty, as alleged.⁸ Consequently, it is unnecessary to address the medical evidence of record regarding causal relationship.⁹

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.

⁴ *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).

⁵ *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).

⁶ *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).

⁷ *See A.S.*, Docket No. 19-1766 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *H.D.*, Docket No. 15-1698 (issued May 4, 2016).

⁹ *J.C.*, Docket No. 19-0542 (issued August 14, 2019); *see M.P.*, Docket No. 15-0952 (issued July 23, 2015); *Alvin V. Gadd*, 57 ECAB 172 (2005).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the April 1, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 27, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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