

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury in the performance of duty on May 29, 2020, as alleged.

FACTUAL HISTORY

On June 12, 2020 appellant, then a 43-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on May 29, 2020 he injured his “back area,” when he was descending steps and felt a sharp pain and discomfort in his back while in the performance of duty.

In a June 16, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to provide the necessary evidence. No response was received within the allotted time frame.

By decision dated July 20, 2020, OWCP denied appellant’s claim, finding that the employment incident had not been established, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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,⁵ 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.⁶ 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.⁷

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established.⁸ Fact of injury consists of two components that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.⁹ Second, the employee

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁹ *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

must submit sufficient evidence to establish that the employment incident caused a personal injury.¹⁰

An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action.¹¹ The employee has not met his or her burden of proof to establish the occurrence of an injury when there are inconsistencies in the evidence that cast serious doubt upon 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 serious doubt on an employee's statements in determining whether a *prima facie* case has been established.¹² An employee's statements 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.¹³

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury in the performance of duty on May 29, 2020, as alleged.

Appellant filed his traumatic injury claim on June 12, 2020, wherein he alleged that he sustained an injury to his back while descending steps. OWCP advised him in its development letter of June 16, 2020 of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. No response was received within 30 days.

The Board finds that appellant's description of the traumatic injury is imprecise and vague and fails to establish that a traumatic incident occurred in the performance of duty, as alleged.¹⁴ Appellant provided no additional details or information sufficient to determine the circumstances surrounding his claimed injury on May 29, 2020.¹⁵ The Board has found that a vague recitation of the facts does not support an appellant's allegation that a specific incident occurred, which caused a work-related injury.¹⁶

¹⁰ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹¹ *M.F.*, Docket No. 18-1162 (issued April 9, 2019); *Charles B. Ward*, 38 ECAB 667, 67-71 (1987).

¹² *Betty J. Smith*, 54 ECAB 174 (2002); *L.D.*, Docket No. 16-0199 (issued March 8, 2016).

¹³ *See M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

¹⁴ *See C.M.*, Docket No. 22-0509 (issued September 28, 2022); *M.E.*, Docket No. 21-1328 (issued April 18, 2022).

¹⁵ *See L.E.*, Docket No. 21-0847 (issued February 16, 2022); *see also L.M.*, Docket No. 21-0109 (issued May 19, 2021).

¹⁶ *L.M.*, Docket No. 20-1592 (issued May 3, 2021); *R.P.*, Docket No. 19-1233 (issued November 19, 2019); *see also K.S.*, Docket No. 17-2001 (issued March 9, 2018).

Appellant has not provided a sufficient description of the alleged employment incident and the mechanism by which he sustained an injury. The Board, therefore, finds that he has not met his burden of proof.¹⁷

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 of proof to establish a traumatic injury in the performance of duty on May 29, 2020, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the July 20, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 18, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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

¹⁷ *J.D.*, Docket No. 22-0286 (issued June 15, 2022); *H.D.*, Docket No. 15-1698 (issued May 4, 2016).