

**United States Department of Labor
Employees' Compensation Appeals Board**

P.M., Appellant)	
)	
and)	Docket No. 22-1157
)	Issued: July 7, 2023
U.S. POST OFFICE, BEDFORD PARK POST)	
OFFICE, Bedford Park, IL, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On July 12, 2022 appellant filed a timely appeal from a May 12, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). Appellant did not provide any basis for her oral argument request. The Board, in exercising its discretion, denies appellant's request for oral argument because the argument on a ppeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the May 12, 2022 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work commencing August 13, 2021 causally related to her accepted June 28, 2021 employment injury.

FACTUAL HISTORY

On July 2, 2021 appellant, then a 48-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on June 28, 2021 she sustained a crush injury to her right ring finger while in the performance of duty. She stopped work on June 29, 2021. OWCP accepted appellant's claim for contusion of the right ring finger without damage to the nail.

In an August 14, 2021 report, Dr. Daniel Troy, a Board-certified orthopedist, treated appellant for a crush injury to the right finger. Appellant reported that on June 28, 2021 her fingers got caught in the rollers and she sustained a crush injury to the distal phalanx involving the distal interphalangeal (DIP) joint while retrieving a piece of mail stuck in a machine. Findings on physical examination revealed tenderness to palpation on the nail plate, healed eponychia region, and tenderness to palpation of the distal phalanx to the DIP joint. Dr. Troy noted that an x-ray of the right hand demonstrated no fractures/dislocation, soft tissue, or bony lesions. He diagnosed pain in the joints of the right hand and crush injury to the right hand fourth digit. Dr. Troy referred appellant to physical therapy. He projected a return to full duty in four to five weeks. In work status forms dated August 14 and September 4, 2021, Dr. Troy diagnosed "pain in joints of right hand" and noted that appellant could not return to work. In duty status reports (Form CA-17) dated August 14 and September 4, 2021, he diagnosed crush injury to the right hand fourth digit. Dr. Troy noted that appellant was totally disabled. On September 4, 2021 he reevaluated appellant for a crush injury to the right fourth and fifth digits. Dr. Troy noted appellant's subjective complaints of pain in her finger. Findings on physical examination revealed full flexion, extension, supination, and pronation, full mobilization of the DIP and proximal interphalangeal joints, slight hyperextension of the DIP joint, no sensory or motor deficits, and subjective discomfort and pain in DIP joint distally in the fourth and fifth distal phalanx. Dr. Troy's assessment was subjective complaints of pain to the right hand fourth and fifth digits not supported by objective findings. He diagnosed pain in the joints of the right hand. Dr. Troy continued physical therapy and indicated that appellant remained off work due to pain.

On September 10, 2021 appellant filed a claim for compensation (Form CA-7) for disability from work commencing August 13, 2021.

In a September 23, 2021 development letter, OWCP informed appellant of the deficiencies of her claim for wage-loss compensation. It advised her of the type of additional factual and medical evidence required and afforded her 30 days to submit the necessary evidence.

OWCP subsequently received addendum reports dated August 14 and September 4, 2021, wherein Dr. Troy reiterated his prior findings and conclusions.

In a September 25, 2021 report, Dr. Troy noted that appellant sustained a contusion to her right hand fourth and fifth digits caused by a crush injury while using a mail sorter machine. Appellant reported improvement in her condition with only subjective symptomology. Findings on physical examination revealed full flexion and extension in all digits, subjective pain in the region of the distal phalanx of the fourth and fifth digits, and intermittent tingling and numbness

in the fourth and fifth digits. Dr. Troy indicated that based on her subjective complaints he would keep her off work until October 6, 2021. He further advised that this was an isolated injury to her right hand and she could return to work using the left upper extremity. In a work status form dated September 25, 2021, Dr. Troy diagnosed “right ring finger only” and noted that appellant could not return to work and would continue physical therapy. In a Form CA-17 dated September 25, 2021, he diagnosed crush injury to the right hand, fourth digit and noted that appellant remained totally disabled.

Appellant filed Form CA-7 claims for compensation for disability from work through October 8, 2021.

A magnetic resonance imaging (MRI) scan of the right hand dated September 21, 2021 revealed no evidence of acute fracture of medullary space edema, grossly intact tendons and ligaments, and no mass, cyst, or significant soft tissue edema.

In an October 8, 2021 report, Dr. Troy treated appellant in follow up for a crush injury to the fourth digit of the right hand. He noted an essentially normal physical examination except for mild tenderness to palpation over the volar aspect of the right fourth DIP joint. Dr. Troy diagnosed crushing injury to the right ring finger and contusion of the right ring finger without damage to nail, subsequent encounter. He noted that appellant reached maximum medical improvement (MMI) and could return to full-duty work.

By decision dated May 12, 2022, OWCP denied appellant’s claim for wage-loss compensation, finding that the medical evidence of record was insufficient to establish disability from work commencing August 13, 2021 causally related to the accepted June 28, 2021 employment injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁶ Whether a particular injury causes an employee to be disabled from employment and the duration of that disability are medical issues, which must be proven by a preponderance of the reliable, probative, and substantial medical evidence.⁷

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ *See C.B.*, Docket No. 20-0629 (issued May 26, 2021); *M.C.*, Docket No. 18-0919 (issued October 18, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989)

⁶ *Id.*; *William A. Archer*, 55 ECAB 674 (2004).

⁷ *V.H.*, Docket No. 18-1282 (issued April 2, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005).

Under FECA the term “disability” is defined as the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of the injury.⁸ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁹

The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work commencing August 13, 2021 causally related to the accepted June 28, 2021 employment injury.

On August 14, 2021 Dr. Troy diagnosed pain in the joints of the right hand and crush injury to the right hand fourth digit and anticipated return to full duty in four to five weeks. He treated appellant on September 4 and 25, 2021 for a crush injury to her right hand fourth and fifth digits sustained while using a mail sorter machine. Dr. Troy noted that appellant remained off work due to her subjective complaints. Similarly, in work status forms dated August 14, September 4, and September 25, 2021, he noted that appellant was totally disabled. Likewise, in Form CA-17’s dated August 14, September 4 and September 25, 2021, Dr. Troy diagnosed crush injury to the right hand fourth digit and concluded that appellant was totally disabled. While he concluded that appellant was totally disabled, he did not offer a rationalized medical explanation to support his opinion. Medical evidence that provides a conclusion, but does not offer a rationalized medical explanation regarding the cause of an employee’s condition or disability is of limited probative value on the issue of causal relationship.¹¹ Thus, these reports are insufficient to establish the claim.

On October 8, 2021 Dr. Troy treated appellant and diagnosed crushing injury to the right ring finger and contusion of the right ring finger without damage to nail, subsequent encounter. He noted that appellant reached MMI and could return to full-duty work. The Board finds that the opinion of Dr. Troy negates disability as he returned her to full-duty work.¹² Therefore, this report is insufficient establish the claim.

⁸ 20 C.F.R. § 10.5(f); *S.T.*, Docket No. 18-0412 (issued October 22, 2018); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

⁹ *G.T.*, Docket No. 18-1369 (issued March 13, 2019); *Robert L. Kaaumoana*, 54 ECAB 150 (2002).

¹⁰ *See B.K.*, Docket No. 18-0386 (issued September 14, 2018); *Amelia S. Jefferson*, *supra* note 7; *Fereidoon Kharabi*, 52 ECAB 291-92 (2001); *see also C.S.*, Docket No. 17-1686 (issued February 5, 2019).

¹¹ *C.V.*, Docket No. 18-1106 (issued March 20, 2019); *M.E.*, Docket No. 18-0330 (issued September 14, 2018); *A.D.*, 58 ECAB 149 (2006).

¹² *See S.H.*, Docket No. 21-0640 (February 2, 2023); *K.S.*, Docket No. 20-0304 (December 1, 2022).

Appellant also submitted an MRI scan. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the employment incident caused the claimed disability.¹³ This evidence is therefore insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish disability from work commencing August 13, 2021 causally related to the accepted June 28, 2021 employment injury, the Board finds that appellant has not met her burden of proof.

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 her burden of proof to establish disability from work commencing August 13, 2021 causally related to her accepted June 28, 2021 employment injury.

ORDER

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

Issued: July 7, 2023
Washington, DC

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

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

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

¹³ *C.B.*, Docket No. 20-0464 (issued July 21, 2020).