

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

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J.M., Appellant )

and )

DEPARTMENT OF THE AIR FORCE, )  
MAINTENANCE WORKING CAPITAL FUND, )  
ROBINS AIR FORCE BASE, GA, Employer )  
\_\_\_\_\_ )

Docket No. 22-1387  
Issued: July 3, 2023

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On September 26, 2022 appellant filed a timely appeal from an August 17, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 her burden of proof to establish an injury in the performance of duty on October 4, 2021, as alleged.

**FACTUAL HISTORY**

On October 13, 2021 appellant, then a 68-year-old management and program analyst, filed a traumatic injury claim (Form CA-1) alleging that she suffered severe headache, vertigo, and an

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

asthma attack on October 4, 2021 while in the performance of duty. She explained that on that day she had strong feelings of anxiety and fear. Appellant picked up a box she had packed and the next thing she knew she was lying on a dirty floor with a serious headache. She stopped work on October 4, 2021. On the reverse side of the form, K.K., her supervisor, challenged the claim. She noted that she witnessed the fall and she did not see appellant “hit anything with her head” during her fall. Appellant landed on her right arm.

In a September 27, 2021 report, Dr. Fabian R. Franco, a physician Board-certified in internal medicine and geriatric medicine, noted appellant had been diagnosed with severe asthma, left knee osteoarthritis, vertigo, and anxiety. He provided work restrictions for her asthma which included no walking long distances, an environment free of chemicals, and no going up stairs. In addition, Dr. Franco noted going up inclines or prolonged movement was not recommended due to appellant’s high fall risk due to vertigo.

In a report dated October 1, 2021, Dr. William B. Wiley, an orthopedic surgeon, advised appellant was seen that day and was under his care for left knee pain with degenerative joint disease and “TMM.” He provided work restrictions of limited bending and prolonged standing, and no stairs or squatting.

In a development letter dated October 15, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP allotted appellant 30 days to respond.

In response to OWCP’s request appellant resubmitted Dr. Franco’s September 27, 2021 report.

OWCP also received memorandums to the record from K.K., appellant’s supervisor, dated October 4 and 5, 2021, which described appellant’s interaction with her on October 4, 2021 prior to the fall, regarding appellant’s refusal to pack and move personal items to a new office location.

By decision dated November 26, 2021, OWCP denied appellant’s claim finding that the incident occurred as alleged, however, the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as required by FECA.

Subsequently OWCP received an October 4, 2021 computerized tomography (CT) scan of appellant’s head, which revealed no acute findings; an October 4, 2021 chest x-ray interpretation reporting well-aerated bilateral lungs and no effusion; and an October 5, 2021 doppler carotid duplex noting no evidence of carotid artery stenosis.

OWCP also received hospital records for an emergency room admission of October 4, 2021 with an admitting diagnosis of syncope. In a history of illness, appellant stated that she was anxious and angry upon returning to her office from a meeting, when she blacked out and woke up on the floor. She also stated that she had been under a lot of stress due to a toxic work environment. Dr. Jonathan Valasquez, an internist, reported examination findings, noted minor forehead abrasions and diagnosed syncope/fainting, headache, and wound.

In an October 5, 2021 Houston Medical Center report, Dr. Mokhtar Hacena, a specialist in allergy and immunology medicines, noted appellant had been admitted on October 4, 2021 for a suspected syncopal episode. Appellant indicated that she had an argument with her supervisor before passing out. She stated that she had been under a lot of stress, and had requested to see a psychiatrist for her depression. Dr. Hacena noted diagnoses of syncopal episode which could be due to possible vasovagal reaction, depression, anxiety, history of asthma, urinary tract infection, history of left diastolic heart failure with no sign of exacerbation, and hypothyroidism.

In a Houston Medical Center consult report dated October 5, 2021, Dr. Nisreen Jallad, a physician Board-certified in cardiovascular disease and internal medicine, noted injury and medical histories, detailed examination findings, and reviewed diagnostic tests. She diagnosed vasovagal syncope with no evidence of cardiogenic causes, anxiety, and depression.

In a consult report dated October 5, 2021, Sharon Hall, a family nurse practitioner, noted injury and medical histories, and diagnosed stress-related anxiety and mild-to-moderate chronic depression without psychosis. Appellant related that she had intermittent vertigo, and that while in an altercation with her supervisor she passed out.

On December 7, 2021 appellant requested an oral hearing before an OWCP hearing representative. A telephonic hearing before an OWCP hearing representative was held on March 22, 2022.

In November 2, 2021 and January 14, 2022 progress reports, Dr. Franco recorded assessments of essential hypertension, diabetes mellitus, mixed hyperlipidemia, unspecified hypothyroidism, moderate asthma, major depressive disorder, dizziness, and severe obesity with comorbidity.

By decision dated June 6, 2022, OWCP's hearing representative vacated the November 26, 2021 decision and remanded the case for OWCP to address whether appellant's fall on October 4, 2021 was idiopathic or unexplained. She further instructed OWCP to readdress the evidence in the record, provide an explanation of a factual basis for the claim, and to obtain a statement from the employing establishment.

In a development letter dated June 8, 2022, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

In a statement dated June 20, 2022, K.K., appellant's supervisor on October 4, 2021, denied intimidating appellant, who she alleged screamed at her and slammed a door in her face. She stated that when she saw appellant, appellant did not appear to be having any asthma attacks or syncope. K.K. stated that she saw appellant throw herself to the ground while Mr. Z had his back to her while opening the door. She stated that appellant did not hit her head on the door or anything else, and that when she landed her head was resting on her arm. K.K. also denied throwing boxes at appellant or telling her to get packing. Lastly, she claimed that the conditions appellant claimed to have been caused by the October 4, 2021 incident were preexisting.

By decision dated August 17, 2022, OWCP denied appellant's claim that she sustained a traumatic injury in the performance of duty. It found that the incident occurred as alleged, but

concluded that the evidence of record was insufficient to establish that she sustained an emotional condition that arose during the course of employment and within the scope of compensable work factors. In reaching this determination OWCP found that appellant did not establish error or abuse on the part of her supervisor when she came into appellant's office on October 4, 2021.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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, 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.<sup>3</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

It is a well-settled principle of workers' compensation law that an injury resulting from an idiopathic fall where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment, is not within coverage of FECA.<sup>5</sup> Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable.<sup>6</sup> However, the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.<sup>7</sup>

This follows from the general rule that an injury occurring while in the performance of duty is compensable unless the injury is established to be within an exception to such general rule.<sup>8</sup> OWCP has the burden of proof to submit medical evidence showing the existence of a personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature.<sup>9</sup> If the record does not establish that the particular fall was due to an idiopathic condition, it must

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<sup>2</sup> *Id.*

<sup>3</sup> *C.G.*, Docket No. 20-0058 (issued September 30, 2021); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *M.A.*, Docket No. 19-0341 (issued July 10, 2019); *H.B.*, Docket No. 18-0278 (issued June 20, 2018); *Carol A. Lyles*, 57 ECAB 265 (2005).

<sup>6</sup> *Id.*; *see also D.T.*, Docket No. 19-1486 (issued January 17, 2020).

<sup>7</sup> *H.B.*, *supra* note 5; *M.M.*, Docket No. 08-1510 (issued November 25, 2008).

<sup>8</sup> *P.N.*, Docket No. 17-1283 (issued April 5, 2018); *Dora Ward*, 43 ECAB 767 (1992).

<sup>9</sup> *J.W.*, Docket No. 20-0598 (issued December 2, 2020); *A.B.*, Docket No. 17-1689 (issued December 4, 2018); *P.P.*, Docket No. 15-0522 (issued June 1, 2016); *see also Jennifer Atkerson*, 55 ECAB 317 (2004).

be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proven that a physical condition preexisted and caused the fall.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has established that the October 4, 2021 incident occurred in the performance of duty, as alleged.

In determining whether appellant's injury occurred in the performance of duty, the Board must first consider factors to determine whether the October 4, 2021 incident was caused by an idiopathic fall. Factors to be considered include whether there is evidence of a preexisting condition that caused appellant to collapse, whether there were any intervening circumstances or conditions that contributed to her fall, and whether appellant struck any part of her body against a wall, piece of equipment, furniture, or similar object as she fell.<sup>11</sup> As previously noted, OWCP bears the burden of proof to establish an idiopathic fall.<sup>12</sup>

On her claim form, appellant alleged that she was injured a result of passing out and falling onto a dirty floor on October 4, 2021 after she experienced syncope while in the performance of duty. In her subsequent response to OWCP's development letter, she explained that her fall was caused by fear and anxiety.

The Board has held that an injury resulting from an idiopathic condition is not compensable. The fact that the cause of a particular fall cannot be ascertained, or that the reason it occurred cannot be explained, does not however establish that it was due to an idiopathic condition. If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.<sup>13</sup>

The medical evidence relevant to the October 4, 2021 incident consists of an October 4, 2021 emergency room report, October 5, 2021 report from Dr. Jallad, reports dated October 11, 2021 from Dr. Hacena, and an October 5, 2021 report from Dr. Hall. The record establishes that appellant had picked up a box she had packed when she passed out and the fall occurred. While appellant has alleged that she sustained anxiety and fear due to intimidation by her supervisor, the medical evidence of record does not establish that she fell due to a medically-diagnosed idiopathic condition. While the medical evidence of record indicates that she may have experienced a syncope, the Board finds that the medical evidence of record does not substantiate, based on diagnostic evidence, that a nonoccupational pathology caused her to sustain syncope which then physiologically caused her to fall. Accordingly, the Board finds that OWCP has failed to meet its burden to establish that appellant's fall at work was of an idiopathic nature with no contribution

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<sup>10</sup> *P.N.*, *supra* note 8; *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988).

<sup>11</sup> *D.T.*, *supra* note 6; *A.B.*, *supra* note 9; *P.P.*, *supra* note 9; *see also Jennifer Atkerson*, *supra* note 9.

<sup>12</sup> *Supra* note 9.

<sup>13</sup> *J.L.*, Docket No. 17-1712 (issued February 12, 2018); *P.W.*, Docket No. 13-0170 (issued March 15, 2013).

or intervention from employment factors.<sup>14</sup> The evidence of record is therefore sufficient to require OWCP to further develop the medical evidence.<sup>15</sup>

Accordingly, the case will be remanded for OWCP to determine whether appellant sustained an injury causally related to the October 4, 2021 unexplained fall, and if so, to also determine the nature and extent of disability, if any. Following any further development deemed necessary, OWCP shall issue a *de novo* decision.

### **CONCLUSION**

The Board finds that appellant has established that the October 4, 2021 incident occurred in the performance of duty, as alleged. The Board further finds that the case is not in posture for a decision regarding whether she has established an injury causally related to the October 4, 2021 unexplained fall.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the August 17, 2022 decision of the Office of Workers' Compensation Programs is reversed and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 3, 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

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<sup>14</sup> *J.F.*, Docket No. 20-1604 (issued July 8, 2021); *D.M.*, Docket No. 18-1553 (issued June 2, 2020); *A.B.*, *supra* note 9.

<sup>15</sup> *J.F.*, *id.*; *A.B.*; *id.*; *Robert A. Redmond*, 40 ECAB 796 (1989).