

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

\_\_\_\_\_ )  
**D.D., Appellant** )

**and** )

**U.S. POSTAL SERVICE, MARYSVILLE POST** )  
**OFFICE, San Francisco, CA, Employer** )  
\_\_\_\_\_ )

**Docket No. 23-0740**  
**Issued: November 3, 2023**

*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 April 27, 2023 appellant filed a timely appeal from a December 5, 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.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted June 23, 2022 employment incident.

---

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

<sup>2</sup> The Board notes that following the December 5, 2022 decision, OWCP received additional evidence. 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.*

## **FACTUAL HISTORY**

On October 21, 2022 appellant, then a 26-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that on June 23, 2022 he was bitten by a dog on the back side of his left hamstring while in the performance of duty. He stopped work that day. Appellant returned to full-time regular duty on June 24, 2022. On the reverse side of the claim form, appellant's supervisors, S.E. and S.S., acknowledged that appellant was in the performance of duty and certified that their knowledge of the injury comported with the information provided by appellant.

In a June 24, 2022 Doctor's First Report of Occupational Injury or Illness, a healthcare provider with an illegible signature noted that on June 23, 2022 appellant reported a dog bite on the left hamstring while walking to mailbox to deliver mail. A diagnosis of dog bite was provided. In the attached June 24, 2022 emergency department discharge instructions, a certified physician assistant provided a discharge diagnosis of dog bite and need for post exposure prophylaxis for rabies due to the injury.

In an October 26, 2022 development letter, OWCP informed appellant that the documentation received in support of his claim was deficient. It advised him of the type of factual and medical evidence necessary and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated December 5, 2022, OWCP accepted that the June 23, 2022 employment incident occurred as alleged. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted June 23, 2022 employment incident. OWCP concluded, therefore, that appellant had not met the requirements to establish an injury as defined by FECA.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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

---

<sup>3</sup> *Supra* note 1.

<sup>4</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.<sup>5</sup> 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.<sup>6</sup>

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. 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the employment incident identified by the employee.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has met his burden of proof to establish a dog bite to his left hamstring due to the accepted June 23, 2022 employment incident.

OWCP accepted that the dog bite incident of June 23, 2022 occurred as alleged. The next day, appellant presented to the emergency department where a healthcare provider with an illegible signature noted that on June 23, 2022 appellant sustained a dog bite to his left hamstring while delivering mail. A diagnosis of dog bite was provided. A certified physician assistant also diagnosed a dog bite in June 24, 2022 emergency room discharge instructions.

The record establishes that appellant submitted medical evidence from healthcare providers containing a dog bite diagnosis in connection with his claim.<sup>10</sup> OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted even without a

---

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> *See D.S.*, Docket No. 21-1315 (issued May 5, 2022); *S.A.*, Docket No. 20-1498 (issued March 11, 2021); *A.H.*, Docket No. 20-0730 (issued October 27, 2020); *B.C.*, Docket No. 20-0079 (issued October 16, 2020).

medical report.<sup>11</sup> As the evidence of record establishes a diagnosed visible injury, the Board finds that appellant has met his burden of proof to establish a dog bite causally related to the accepted June 23, 2022 employment incident.<sup>12</sup> Appellant, therefore, has established an injury in the performance of duty. The case will, therefore, be remanded for payment of medical expenses and any attendant disability.

**CONCLUSION**

The Board finds that appellant has met his burden of proof to establish a dog bite to his left hamstring due to the accepted June 23, 2022 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 5, 2022 decision of the Office of Workers' Compensation Programs is reversed.

Issued: November 3, 2023  
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

---

<sup>11</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.8053(c) (January 2013). See also *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

<sup>12</sup> See *D.S.*, *supra* note 10; *R.H.*, Docket No. 20-1684 (issued August 27, 2021).