

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

_____)	
L.W., Appellant)	
)	
and)	Docket No. 23-0682
)	Issued: September 28, 2023
U.S. POSTAL SERVICE, POST OFFICE,)	
Grand Rapids, MI, Employer)	
_____)	

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 14, 2023 appellant filed a timely appeal from a March 28, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted January 23, 2023 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the March 28, 2023 decision, OWCP received additional evidence. 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 February 23, 2023 appellant, then a 50-year-old postal distributor, filed a traumatic injury claim (Form CA-1) alleging that on January 23, 2023 she injured her left forearm, wrist, and shoulder, and experienced possible nerve damage when she lifted heavy mail trays while in the performance of duty. She stopped work on January 24, 2023 and returned on January 25, 2023.³

In support of her claim, appellant submitted a January 23, 2023 note from Dr. Stanley Szczecienski, Board-certified in family practice, returning her to work on January 25, 2023. In an unsigned referral of even date, Dr. Szczecienski referred her to an orthopedic surgeon and noted diagnoses of left forearm pain and ulnar neuropathy at elbow of left upper extremity.

In orders and a discharge note dated February 7, 2023, Dr. Ryan Ouillette, a Board-certified orthopedic surgeon, noted a diagnosis of cervical spinal stenosis, ordered a magnetic resonance imaging (MRI) scan and electromyography, and held appellant off work until March 7, 2023.

In a February 8, 2023 statement, appellant noted that on January 23, 2023 she was working on a machine and removed a heavy tray that was overfilled with mail when her forearm appeared to become fractured, causing her left pinky and ring fingers to move uncontrollably and causing sharp and shooting pains. She related that she notified her supervisors, L.M., E.D., and K.B., of a possible fracture several times and left early to seek treatment at an urgent care facility. Appellant indicated that she experienced neuropathy, tendinitis, tennis elbow, and possible nerve damage, and that she expected to be off work until March 7, 2023.

In a February 24, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the evidence necessary to establish her claim and provided a factual questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. It afforded both parties 30 days to submit the requested evidence.

Thereafter, OWCP received an April 25, 2002 position description describing the duties of a mail processing clerk, and an order for durable medical equipment with an illegible date from Dr. Ouillette.

An unsigned January 23, 2023 after visit summary noted that appellant was treated for left forearm pain and ulnar neuropathy at the elbow of her left upper extremity.

In a February 8, 2023 e-mail, a witness, C.R., related that they were aware that appellant's wrist was injured with a pinched nerve, but that appellant never told them that she injured herself at work or on the workroom floor. In an e-mail of even date, L.M., an employing establishment

³ The Board notes that appellant previously filed a Form CA-1 on October 20, 2022 under OWCP File No. xxxxxx036, in which she claimed she experienced stress and mental health issues related to her job due to harassment. Appellant also filed a Form CA-1 on July 15, 2022 under OWCP File No. xxxxxx715, in which she claimed she experienced work-related stress and depression due to harassment and retaliation. The claims have not been administratively combined by OWCP.

supervisor, related that, on or around January 22 or 23, 2023, appellant informed her that she was leaving early to go to urgent care and have her arm checked for a suspected fracture, but appellant continued loading mail onto the machine and never mentioned an incident at work. In a February 9, 2023 statement, K.B., an employing establishment supervisor, related that she did not work on January 23, 2023 and did not speak to any employees about accidents or similar incidents.

In a February 21, 2023 statement, E.D., an employing establishment supervisor, noted that at approximately 11:00 a.m. on January 23, 2023 appellant told her that she may have to leave early because her elbow was hurting badly and might be fractured. Appellant asked for alternative work duties, which E.D. granted and assigned appellant to priority mail. E.D. indicated that appellant never mentioned anything else about the situation, never indicated that her condition was a work-related issue, and asked another supervisor to leave early to go to urgent care.

In challenge letters dated February 27 and March 24, 2023, the employing establishment controverted the claim, asserting that appellant failed to provide medical evidence containing a rationalized opinion establishing causal relationship between a diagnosed medical condition and her federal employment. It related that she requested to leave work early on January 23, 2023 stating that she believed that her arm was fractured, but she did not indicate that the medical appointment was for a work-related injury and continued to work on the machine and loaded mail. The employing establishment indicated that Dr. Ouillette's February 7, 2023 note diagnosed cervical spinal stenosis, not a traumatic injury to the arm, and that his March 20, 2023 order and discharge note provided additional diagnoses that were not related to appellant's alleged January 23, 2023 wrist, forearm, and shoulder injury.

In a February 27, 2023 response to OWCP's development letter, the employing establishment controverted appellant's claim, asserting that she did not notify management. It explained that, on the date of the accident, she informed management that she needed to leave early for a medical appointment, and that she subsequently returned to work with a January 23, 2023 note indicating that she could return to work on January 25, 2023. The employing establishment explained that appellant's duties included lifting trays to a machine and transferring letters and envelopes from the tray to the machine. After the machine sorts the mail, the mail is transferred into mail containers, and she must push and pull containers that are both empty and full to and from the machine, which is her duty for eight hours per day. The employing establishment further noted that appellant is permitted two 15-minute breaks and a 30-minute lunch and did not request special accommodations or restrictions.

In a March 4, 2023 revised statement, appellant noted that while working on a machine on January 23, 2023 she lifted and removed a heavy, overfilled tray and felt extreme pain in her forearm and shoulder. Her left forearm felt as if she fractured it, and her left pinky and ring fingers began moving uncontrollably. Appellant related that sharp, excruciating pain radiated from her left shoulder blade to her left wrist, worsening at the forearm, and she is left hand dominant. She continued to work until she was able to inform supervisors L.M. and E.D. that she needed to go to the hospital and noted that acting supervisor K.B. also knew about the injury. Appellant left early to seek treatment at an urgent care where the attending physician indicated neuropathy, tendinitis, tennis elbow, and possible nerve damage. She was subsequently treated by Dr. Ouillette, received braces for her wrist and forearm, and expected to return to work on March 7, 2023.

In a March 20, 2023 order, Dr. Ouillette referred appellant for physical therapy for treatment of diagnoses of cervical spinal stenosis, left tennis elbow, left carpal tunnel syndrome (CTS), motor vehicle accident, diabetes, and cerebral vascular accident. In a discharge note of even date, he noted a diagnosis of left tennis elbow and provided work restrictions beginning March 24, 2023 of no lifting more than five pounds for the next six weeks.

By decision dated March 28, 2023, OWCP accepted that the January 23, 2023 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted January 23, 2023 employment incident.

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 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,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 first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁸

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ 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

⁴ *Supra* note 1.

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *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).

⁹ *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).

nature of the relationship between the diagnosed condition and the specific employment incident identified by the claimant.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted January 23, 2023 employment incident.

Appellant submitted a January 23, 2023 note from Dr. Szczecienski returning her to work and noted a diagnoses of left forearm pain and ulnar neuropathy at the elbow of her left upper extremity. She also submitted orders and a discharge note dated February 7, 2023 in which Dr. Ouillette diagnosed cervical spinal stenosis and held her off work until March 7, 2023. Similarly, in a March 20, 2023 order and discharge note, Dr. Ouillette provided work restrictions, referred appellant for physical therapy, and diagnosed cervical spinal stenosis, left tennis elbow, left CTS, motor vehicle accident, diabetes, and cerebral vascular accident. In an order of illegible date, he ordered durable medical equipment. However, this evidence did not include an opinion relative to causal relationship. The Board has held that medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship. As such, this evidence is insufficient to establish appellant's claim.¹¹

OWCP also received an unsigned January 23, 2023 after visit summary and referral in which Dr. Szczecienski diagnosed left forearm pain and ulnar neuropathy at the elbow of the left upper extremity. However, the Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.¹²

As appellant has not submitted rationalized medical opinion evidence establishing a medical condition causally related to the accepted January 23, 2023 employment incident, the Board finds that she 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 a medical condition causally related to the accepted January 23, 2023 employment incident.

¹⁰ *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹¹ *See D.Y.*, Docket No. 20-0112 (issued June 25, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

ORDER

IT IS HEREBY ORDERED THAT the March 28, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 28, 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