

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

_____)	
K.S., Appellant)	
)	
and)	Docket No. 25-0350
)	Issued: April 2, 2025
U.S. POSTAL SERVICE, NASHVILLE MAIN)	
POST OFFICE, Nashville, TN, Employer)	
_____)	

Appearances:
Wayne Johnson, Esq., for the appellant¹
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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 3, 2025 appellant, through counsel, filed a timely appeal from a September 5, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish a right upper extremity condition causally related to the accepted December 11, 2021 employment incident.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On January 4, 2022 appellant, then a 41-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on December 11, 2021 he chipped a bone in his right elbow and jarred his shoulder when he tripped and fell on a sidewalk and landed on his right elbow and shoulder while in the performance of duty. He stopped work on December 12, 2021, and returned to work on December 20, 2021.

In a report dated December 11, 2021, Dr. Michael A. Thomas, a Board-certified family specialist, related appellant's complaint of an arm injury due to a fall at work. He noted his review of x-rays of the right shoulder and elbow with impressions of no evidence of fracture of the right shoulder, diffuse soft tissue swelling of the right elbow, and likely thin linear osseous avulsion off of the superior aspect of the right olecranon. In a work release form of even date, Dr. Thomas recommended that appellant remain off work from December 11 through 18, 2021.

In a January 18, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and afforded him 30 days to respond. No additional evidence was received.

By decision dated February 18, 2022, OWCP accepted that the December 11, 2021 employment incident occurred, as alleged. However, it denied the claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 18, 2022 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, which was held on July 7, 2022.

By decision dated August 24, 2022, OWCP's hearing representative modified the February 18, 2022 decision to find that appellant had established that a medical condition was diagnosed in connection with the accepted employment incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted December 11, 2021 employment incident.

On August 24, 2023 appellant, through counsel, requested reconsideration of OWCP's August 24, 2022 decision. In support thereof, he submitted a medical report dated December 17, 2021 by Dr. Akashia Anderson, a Board-certified family medicine specialist, who noted that appellant related complaints of soreness in his right shoulder and tenderness in his right elbow, which he attributed to a slip and fall. Dr. Anderson indicated that appellant also related a history of swelling and bruising in the right elbow after the fall. She performed a physical examination, where she observed tenderness to palpation of the right elbow, pain in the right shoulder during range of motion testing, and reduced grip strength of the right hand. Dr. Anderson diagnosed unspecified closed fracture of upper end of right ulna and right shoulder stiffness.

By decision dated August 28, 2023, OWCP denied modification of the August 24, 2022 decision.

On August 28, 2024 appellant, through counsel, requested reconsideration of OWCP's August 28, 2023 decision.

By decision dated September 5, 2024, OWCP denied modification of its August 28, 2023 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.⁶

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 that 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. The second component is whether the employment incident caused an injury.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ 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 specific employment incident identified by the employee.⁹

³ *Supra* note 1.

⁴ *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).

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *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).

⁹ *P.C.*, Docket No. 20-0855 (issued November 23, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right upper extremity condition causally related to the accepted December 11, 2021 employment incident.

In a December 11, 2021 report, Dr. Thomas noted a likely thin linear osseous avulsion off of the superior aspect of the olecranon and diffuse soft tissue swelling. He related appellant's complaint of an arm injury due to a fall at work. In a work release form of even date, Dr. Thomas recommended that he remain off work from December 11 through 18, 2021. However, he did not provide an opinion on causal relationship. As noted above, the Board has held that a medical report lacking an opinion on causal relationship is of no probative value.¹⁰ Therefore, this evidence is insufficient to establish the claim.

Dr. Anderson, in her December 17, 2021 report, noted appellant's history of a slip and fall and diagnosed unspecified closed fracture of the upper end of the right ulna and right shoulder stiffness. However, she likewise did not provide an opinion as to the cause of those conditions.¹¹ Therefore, the report of Dr. Anderson is also insufficient to establish the claim.

As the medical evidence of record is insufficient to establish an additional medical condition as causally related to the accepted December 11, 2021 employment injury, the Board finds that appellant has not met his 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 his burden of proof to establish a right upper extremity condition causally related to the accepted December 11, 2021 employment incident.

¹⁰ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 2, 2025
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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