

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

N.J., Appellant)
and) **Docket No. 25-0892**
U.S. POSTAL SERVICE, SANTA ANA)
PROCESSING & DISTRIBUTION CENTER,)
Santa Ana, CA, Employer)
Issued: December 23, 2025

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

On September 17, 2025 appellant filed a timely appeal from a July 16, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 25-0892.

On January 2, 2025 appellant, then a 61-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that at 10:51 a.m. on December 23, 2024 she injured her right shoulder near her neck when a shelf from a faulty all-purpose-container (APC) opened and fell on top of her right shoulder/neck, while in the performance of duty. She stopped work on the claimed date of injury and returned to work on December 24, 2024. On the reverse side of the claim form, the employing establishment acknowledged that appellant was injured in the performance of duty.

In support of her claim, appellant submitted an employing establishment employee statement dated December 23, 2024. She indicated on this form that on that date at 10:51 a.m. she was unloading APCs from a truck when an APC opened from the top and hit the top of her right shoulder. Appellant noted that the driver of the truck witnessed the incident and called for help. She reported the incident to her supervisor who took pictures of the faulty equipment and spoke to the truck driver.

Appellant also submitted an employing establishment supervisor's statement dated December 23, 2024, wherein J.C., appellant's supervisor, confirmed that appellant had reported the December 23, 2024 incident to him and that the truck driver was a witness.

Additionally, appellant submitted medical evidence.

In a December 30, 2024 letter, J.C. controverted appellant's claim. He related that appellant reported that she sustained an injury on December 23, 2024 while unloading a truck full of empty APCs and an APC gate opened and hit the top of her shoulder. J.C. noted that when she returned to work on December 30, 2024, she related that she was on the ramp pulling the front of the APC and when she went around the right side to the back of the APC to push it, the top of the APC gate fell over and struck her collar bone and right shoulder. He further noted that a witness statement from L.R., the truck driver, indicated that appellant was on the side pulling two APCs when the APC gate fell over a quarter of the way. J.C. indicated that his review of a videotape of the December 23, 2024 incident revealed that appellant was seen on the right side of the ramp facing the trailer while helping L.R. pull two APCs. He indicated that L.R. was seen pushing the APCs from inside the trailer and appellant helped him pull the APC on the side when the gate slightly opened, but L.R. was able to catch it as it was opening quarter of the way down. J.C. related that prior to the claimed incident appellant was mandated to come to work on Christmas day and she had been questioning management why she had to work on that day. He questioned the validity of her injury claim based on the above-noted inconsistencies.

J.C. submitted largely illegible screenshots of the timeline of the December 23, 2024 events.

In an employee statement dated December 30, 2024, L.R. related that he came to pick up both empty APCs when the APC gate came down. He noted that appellant was on the side.

OWCP, in a development letter dated January 28, 2025, informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim. OWCP afforded appellant 60 days to submit the necessary evidence.

In a response letter dated January 30, 2025, appellant related that while unloading an APC, the top gate of the APC opened. She noted that another supervisor transported her to and from a hospital for treatment of her injured shoulder.

Appellant submitted additional medical evidence.

In a follow-up letter dated March 6, 2025, OWCP advised appellant that it had conducted an interim review, and the factual evidence remained insufficient to establish her claim. It noted that she had 60 days from the January 28, 2025 letter to submit the necessary evidence. OWCP further advised that if sufficient evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

OWCP subsequently received additional medical evidence.

OWCP also received an April 20, 2025 statement from L.R. in Spanish regarding the December 23, 2024 incident.

In a letter dated March 26, 2025, appellant contended that L.R. told J.C. and another supervisor “A” that an APC opened and hit her on the right shoulder and collar bone on December 23, 2024. She noted that her contention was initially supported by J.C.’s statement.

By decision dated April 10, 2025, OWCP denied appellant’s traumatic injury claim, finding that the evidence of record was insufficient to establish that the December 23, 2024 incident occurred in the performance of duty, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP thereafter continued to receive medical evidence.

On April 22, 2025, appellant requested reconsideration of the April 10, 2025 decision.

OWCP subsequently received additional medical evidence.

OWCP also received statements dated May 22, 2025, wherein R.M., an employing establishment union branch president, related that on May 1, 2025, the union requested to see video footage of appellant’s accident. R.M. noted that upon his review of the video footage, both management and the union were unable to determine if the APC door hit appellant. He indicated that the position of the camera used was over 20 feet away from where the accident occurred. R.M. related that the union determined that the video footage could not be used against appellant because it was unclear. He noted that the employing establishment informed the union that the camera that was closest to the accident was facing the left side and did not capture the accident. R.M. further noted that L.R. was the only witness to the incident and his statement had been translated from Spanish into English.

OWCP continued to receive medical evidence.

By letter dated June 9, 2025, the employing establishment related its intent to clarify appellant’s traumatic injury claim. It submitted the English translation of L.R.’s April 20, 2025 statement, which indicated that on December 23, 2024, at around 10:30 in the morning, he saw the door of an APC come loose and hit appellant on her shoulder. The employing establishment contended that his statement contradicted what he said during the December 30, 2024 fact-finding investigation, which was just seven days after the incident. It noted that L.R. previously related that when the APC gate opened, appellant was on the side. The employing establishment contended that L.R. never mentioned that he saw her get hit by the APC gate. It further contended that L.R.’s December 30, 2024 statement matched the video, which showed that although appellant was on the side when the gate slightly opened, he was able to stop it right away without anyone getting hurt. The employing establishment advised that the video was available for review.

In a July 16, 2025 memorandum of telephone call (Form CA-110), J.C. confirmed to OWCP his December 30, 2024 statement that video evidence showed that the APC door did not hit appellant on the shoulder at the claimed place and time. OWCP referenced R.M.’s May 22, 2025 statement that management and the union were unable to determine if the APC door hit appellant based on their review of video footage. In response, J.C. advised OWCP that he was unaware that the union had reviewed the video evidence. He further advised that he was

unaware that any management representative had found that it could not be determined whether the APC's door in fact hit appellant.

By decision dated July 16, 2025, OWCP denied modification of the April 10, 2025 decision.

The Board, having duly considered this matter, finds that the case is not in posture for decision.

As noted above, the employing establishment indicated that it had possession of a videotape which they claimed that appellant did not get hit by an APC gate while she was unloading APCs from a truck at work on December 23, 2024. However, while the employing establishment provided largely illegible screenshots, a copy of the videotape was not provided. Further, J.C. indicated that he was unaware that the union had reviewed the video evidence and that a management representative had found that it could not be determined whether the APC's door in fact hit appellant.

The employing establishment should provide to OWCP any relevant information that is normally in its exclusive control.¹ Without additional information from the employing establishment pertaining to the alleged December 23, 2024 employment incident, OWCP has failed to procure the evidence necessary to determine whether the December 23, 2024 employment incident occurred as alleged.² It must, therefore, further develop this factual aspect of the case before a full and fair determination can be made regarding this issue.³

It is well established that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter.⁴ While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.⁵

On remand, the employing establishment shall provide a copy of all the videotapes of the incident to OWCP. Following this and any other further development deemed necessary, OWCP shall issue a *de novo* decision.

¹ See *L.I.*, Order Remanding Case, Docket No. 23-0471 (issued December 26, 2023); *S.B.*, Docket No. 22-1346 (issued June 1, 2023); *M.H.*, Docket No. 19-0930 (issued June 17, 2020).

² *Id.*

³ See *id.*; *S.N.*, Docket No. 21-0258 (issued October 19, 2021); see also *J.V.*, Docket No. 17-0973 (issued July 19, 2018).

⁴ *N.L.*, Docket No. 19-1592 (issued March 12, 2020); *M.T.*, Docket No. 19-0373 (issued August 22, 2019); *B.A.*, Docket No. 17-1360 (issued January 10, 2018); *Clinton E. Anthony, Jr.*, 49 ECAB 476 (1998).

⁵ *C.L.*, Docket No. 20-1631 (issued December 8, 2021); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

IT IS HEREBY ORDERED THAT the July 16, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: December 23, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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