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C.J., Appellant)	
)	
and)	Docket No. 25-0145
)	Issued: February 7, 2025
DEPARTMENT OF THE AIR FORCE, JOINT)	
BASE ANDREWS AIR FORCE BASE, MD,)	
Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On November 27, 2024 appellant filed a timely appeal from a November 4, 2024 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.

The issue is whether appellant has met his burden of proof to establish entitlement to continuation of pay (COP).

On October 16, 2024 appellant, then a 36-year-old engineering technician, filed a traumatic injury claim (Form CA-1) alleging that on September 10, 2024 he ruptured his left Achilles tendon

¹ 5 U.S.C. § 8101 *et seq.*

when he descended stairs as he exited the employing establishment, heard a “pop” in his left ankle, then fell to the ground, scraping his knee while in the performance of duty.

In an October 22, 2024 letter, the employing establishment controverted appellant’s entitlement to COP as he had not reported the injury within 30 days.

Thereafter, OWCP received a September 11, 2024 employing establishment supervisor incident report, wherein K.K., appellant’s supervisor, corroborated appellant’s account of the September 10, 2024 employment incident.

On November 4, 2024 OWCP accepted the claim for left Achilles tendon tear.

By separate decision also dated November 4, 2024, OWCP denied appellant entitlement to COP, finding that he had not reported his September 10, 2024 injury on an OWCP-approved form within 30 days of the date of injury.

LEGAL PRECEDENT

Section 8118(a) of FECA authorizes COP, not to exceed 45 days, to an employee who has filed a claim for a period of wage loss due to a traumatic injury with his or her immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of FECA.² This latter section provides that written notice of injury shall be given within 30 days.³ The context of section 8122 makes clear that this means within 30 days of the date of injury.⁴

OWCP’s regulations provide, in pertinent part, that to be entitled to COP, an employee must: (1) have a traumatic injury which is job related and the cause of the disability and/or the cause of lost time due to the need for medical examination and treatment; (2) file Form CA-1 within 30 days of the date of the injury; and (3) begin losing time from work due to the traumatic injury within 45 days of the injury.⁵

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish entitlement to COP.

The record reflects that appellant filed a Form CA-1 on October 16, 2024, alleging that on September 10, 2024 he sustained a left Achilles tendon tear when descending steps while in the performance of duty. The appellant’s supervisor filed an incident report on September 11, 2024;

² *Id.* at § 8118(a).

³ *Id.* at § 8122(a)(2).

⁴ *E.M.*, Docket No. 20-0837 (issued January 27, 2021); *J.S.*, Docket No. 18-1086 (issued January 17, 2019); *Robert M. Kimzey*, 40 ECAB 762, 763-64 (1989); *Myra Lenburg*, 36 ECAB 487, 489 (1985).

⁵ 20 C.F.R. § 10.205(a)(1-3); *see also T.S.*, Docket No. 19-1228 (issued December 9, 2019); *J.M.*, Docket No. 09-1563 (issued February 26, 2010); *Dodge Osborne*, 44 ECAB 849 (1993); *William E. Ostertag*, 33 ECAB 1925 (1982).

however, the Board has held that a supervisor's submission of a non-approved form does not create an exception to the 30-day time limitation to claim COP under section 8122 of FECA.⁶

As appellant filed his Form CA-1 on October 16, 2024, more than 30 days after the September 10, 2024 date of injury, the Board finds that appellant did not file his claim for COP within 30 days of the date of injury.⁷

The Board, therefore, finds that OWCP properly denied COP as appellant did not file his claim within the requisite 30 days from the date of injury.

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 entitlement to COP.

⁶ *S.M.*, Docket No. 23-0376 (issued December 18, 2023).

⁷ *J.M.*, Docket No. 24-0933 (issued October 23, 2024).

ORDER

IT IS HEREBY ORDERED THAT the November 4, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 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