United States Department of Labor
Employees' Compensation Appeals Board

C.B., Appellant	)	
and	)	**Docket No. 25-0222**
	)	**Issued: February 6, 2025**
U.S. POSTAL SERVICE, GRANITE CITY POST OFFICE, Granite City, IL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 January 7, 2025 appellant, through counsel, filed a timely appeal from a December 11, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (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 traumatic injury in the performance of duty on March 23, 2024, as alleged.

[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 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 March 27, 2024 appellant, then a 27-year-old delivery performance specialist, filed a traumatic injury claim (Form CA-1) alleging that on March 23, 2024 he sustained a left knee injury while in the performance of duty. He noted that on that date at 4:30 p.m. he was navigating broken stairs at a residential delivery point on the 2500 block of Cleveland Boulevard, Granite City, Illinois, when his left knee popped. On the reverse side of the claim form, H.S., an employing establishment supervisor, checked a box marked "Yes" in response to whether appellant was in the performance of duty at the time of injury. She also indicated that her knowledge of the facts about the injury did not agree with his statements, noting that he was not assigned to the route where the alleged incident occurred and that the carrier on the route had completed the route prior to the time of the alleged incident. Appellant did not stop work.

In a visit summary, work activity status report, and attending physician's report (Form CA-20) dated March 28, 2024, Dr. Anjum Razzaque, a Board-certified internist, noted that appellant's left foot got caught on a broken step of a customer's house and he "twisted his left knee and heard a pop." He noted that appellant could not straighten his knee, diagnosed a left knee sprain, and replied "Yes" to indicate that the condition was caused or aggravated by an employment activity. Dr. Razzaque released appellant to return to work with restrictions sitting for 50 percent of his shift and no lifting, pushing, or pulling greater than 20 pounds.

The employing establishment issued an authorization for examination and/or treatment report (Form CA-16) on March 29, 2024. The form noted a left knee sprain. In an attached March 28, 2024 attending physician's report, Part B of Form CA-16, Dr. Razzaque diagnosed a left knee contusion and sprain. He opined that the condition was caused or aggravated by the employment activity, described as appellant felt a pop in the left knee while descending stairs at a customer's house.

On April 1, 2024 appellant accepted an offer of modified or limited duty, casing mail for two hours per day.

In a duty status report (Form CA-17) dated April 8, 2024, Dr. Razzaque released appellant to return to work with restrictions of standing and walking no more than two hours per day, sitting for four hours per day, and lifting and carrying up to 20 pounds for up to six hours per day.

In an April 10, 2024 development letter, OWCP informed appellant of the deficiencies of his claim, advised him of the type of factual and medical evidence necessary to establish his claim, and provided a factual questionnaire for his completion. It afforded him 60 days to submit the necessary evidence. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded the employing establishment 30 days to respond.

OWCP thereafter received a March 28, 2024 medical report by Dr. Razzaque, who indicated that appellant related that when he was descending steps at a customer's house his left foot got caught on a broken step and he twisted his left knee and heard a pop but did not fall down. Dr. Razzaque indicated that he felt okay after the initial pop and kept working but started having pain in the left knee two to three days later. He performed a physical examination, where he

observed swelling of the medial aspect of the left knee, diffuse tenderness over the anteromedial aspect, limited range of motion in all planes with pain, and limping on the left. Dr. Razzaque diagnosed left knee sprain and recommended physical therapy and work restrictions.

In a follow-up report dated April 1, 2024, Dr. Razzaque documented physical examination findings and diagnosed a left knee sprain and left knee contusion. He recommended physical therapy.

In an April 3, 2024 initial evaluation report, Matthew Renner, a physical therapist, noted that appellant related that he was descending stairs which were in disrepair, and his foot moved quickly under him causing "something to happen" to his knee. He noted that there was a pop in the left knee, that he worked about two hours after the incident, and that he experienced pain in the left knee two days later.

In a follow-up letter dated May 3, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the April 10, 2024 letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In follow-up reports dated April 8 through May 13, 2024, Dr. Razzaque increased appellant's work capabilities and diagnosed contusion and sprain of left knee.

OWCP also received additional physical therapy reports dated April 8 through May 15, 2024.

By decision dated June 17, 2024, OWCP denied appellant's traumatic injury claim, finding that he had not submitted sufficient evidence to establish that the events occurred, as alleged. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On June 27, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In an October 7, 2024 response to OWCP's development questionnaire, appellant indicated that he was "fingering the mail, walking down stairs at a residential delivery point. When suddenly my footing was lost and my knee buckled resulting in a fall/injury." He indicated that the "injury occurred when I pulled up to the 2500 block of [Cleveland Boulevard] instead of the 2600 block. When getting out to go deliver to the first address, I then realized I was on the wrong block. When walking down the stairs back to the truck is when the injury happened."

A hearing was held on October 10, 2024.

By decision dated December 11, 2024, OWCP's hearing representative affirmed the June 17, 2024 decision.[3]

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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 the employee established 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.[8]

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action.[9] The employee has not met his or her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on the employee's statements in determining whether a *prima facie* case has been established.[10] An employee's statements

[3] While the cover letter of the December 11, 2024 decision stated that the June 17, 2024 decision was vacated and remanded to OWCP for further development, it is clear from the context of the decision that this is a typographical error and that it was intended to affirm the June 17, 2024 decision.

[4] *Supra* note 2.

[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.W.*, Docket No. 17-0261(issued May 24, 2017).

[10] *C.M.*, Docket No. 20-1519 (issued March 22, 2021); *Betty J. Smith*, 54 ECAB 174 (2002).

alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.[11]

ANALYSIS

The Board finds that appellant has met his burden of proof to establish a traumatic incident in the performance of duty on March 23, 2024, as alleged.

In his Form CA-1, appellant alleged that he injured his left knee on March 23, 2024 when his left knee popped while navigating broken stairs at a residential delivery point on the 2500 block of Cleveland Boulevard. On the reverse side of the claim form, his supervisor, H.S., acknowledged that he was in the performance of duty when injured but noted that he was not assigned to deliver mail to the provided address and that mail had already been delivered to that address by the assigned carrier prior to the time of the alleged incident. In an October 7, 2024 response to OWCP's development questionnaire, appellant clarified that he accidentally went to the wrong block (2500 Cleveland Boulevard). When he realized that he needed to be on the 2600 block, he began to leave and his left foot got caught on a broken step, and he twisted his left knee and heard a pop. Appellant indicated that his left knee started to hurt two to three days later, and he sought medical treatment. In a medical report, Form CA-20, and Part B of Form CA-16 dated March 28, 2024, Dr. Razzaque indicated that appellant related that he was descending steps at a customer's house and his left foot got caught on a broken step and he twisted his left knee and heard a pop but did not fall down. He also noted that appellant felt okay after the initial pop and kept working, but started to experience pain in the left knee two to three days later. In an April 3, 2024 physical therapy evaluation, Mr. Renner noted that appellant related that he was descending stairs that were in disrepair and his foot moved quickly under him and he heard a pop in his left knee. He went on to say that appellant worked for the next two hours, and that he felt pain a couple of days later.

Appellant has consistently maintained, as well as reported by his attending physician and physical therapist, that his injury occurred due his left foot getting caught on broken stairs while delivering mail, and that he heard a pop. As noted, an employee's statement alleging that an injury occurred at a given time and place, and in a given manner, is of great probative value and will stand unless refuted by strong or persuasive evidence.[12] There are no inconsistencies in the evidence sufficient to cast serious doubt upon the validity of the claim.[13] Therefore, the Board finds that he has met his burden of proof to establish that a traumatic incident occurred in the performance of duty on March 23, 2024 as alleged.

Consequently, the question becomes whether the incident caused an injury. As OWCP found that appellant had not established fact of injury, it did not evaluate the medical evidence. The case must, therefore, be remanded for consideration of the medical evidence of record. After such further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met his burden of proof to establish an injury causally related to the accepted March 23, 2024 employment incident, and any attendant disability.

[11] *K.H.*, Docket No. 22-0370 (issued July 21, 2022); *L.M.*, Docket No. 21-0109 (issued May 19, 2021).

[12] *E.S.*, Docket No. 22-1339 (issued May 16, 2023); *D.B.*, 58 ECAB 464 (2007).

[13] *E.S.*, *id*.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a traumatic injury in the performance of duty on March 23, 2024, as alleged.[14]

ORDER

IT IS HEREBY ORDERED THAT the December 11, 2024 decision of the Office of Workers' Compensation Programs is reversed and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 6, 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

[14] The Board notes that the employing establishment executed a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).