

² The Board notes that OWCP received additional evidence following the December 4, 2024 decision. However, 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 September 15, 2024, appellant, then a 47-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on September 12, 2024 he sustained a swollen and bruised knee due to “broken equipment” while in the performance of duty. He stopped work that same day.

OWCP received work status notes, which contained illegible signatures.

On September 20, 2024, OWCP received an undated statement from S.K., who related that she “witness[ed] an APC hit [appellant] [when] he was attempting to move it and it [fell] to the ground.”

In a development letter dated September 30, 2024, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. Appellant did not respond to the questionnaire.

OWCP subsequently received additional work status notes dated September 25, October 2, and October 13, 2024.

A September 13, 2024 x-ray of the chest revealed no signs for acute pulmonary process.

A September 13, 2024 x-ray of appellant’s left knee revealed no acute fracture, increasing ossicle beneath the lower pole patella, which could suggest chronic tug lesion or chronic patellar tendinosis, mild bicompartamental osteoarthritis of the left knee, and small joint effusion.

A September 19, 2024 x-ray of appellant’s left knee revealed no acute abnormality.

In a follow-up development letter dated October 30, 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 its September 30, 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. No additional evidence was received.

By decision dated December 4, 2024, OWCP denied appellant’s claim, finding that the evidence of record was insufficient to establish that the September 12, 2024 employment incident occurred, as alleged. It noted that he had not responded to the development questionnaire. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

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

³ *Supra* note 1.

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 must first be determined whether fact of injury has been established.⁷ Generally, fact of injury consists of two components that must be considered in conjunction with one another. First, 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.⁸ Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.⁹

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. 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 statement 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 not met his burden of proof to establish a traumatic injury in the performance of duty on September 12, 2024, as alleged.

⁴ See *B.G.*, Docket No. 24-0869 (issued November 7, 2024); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁸ *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *M.F.*, Docket No. 18-1162 (issued April 9, 2019); *Charles B. Ward*, 38 ECAB 667 (1987).

¹¹ *B.M.*, Docket No. 21-1185 (issued March 4, 2022); *L.D.*, Docket No. 16-0199 (issued March 8, 2016); *Betty J. Smith*, 54 ECAB 174 (2002).

In his Form CA-1, appellant alleged that, on September 12, 2024, he sustained a swollen and bruised knee due to broken equipment. In its September 30 and October 30, 2024 development letters, OWCP requested that he complete an attached questionnaire and provide a detailed factual description of the alleged employment incident. No response was received. On September 20, 2024, OWCP received a statement from S.K., who related that she “witness[ed] an APC hit [appellant] [when] he was attempting to move it and it [fell] to the ground.” This statement, however, did not indicate a date of this alleged incident, nor did it provide additional details.

As noted, appellant bears the burden of submitting a factual statement describing the alleged traumatic incident.¹² As he did not complete the development questionnaire and failed to provide sufficiently detailed factual evidence as requested by OWCP, the Board finds that he has not met his burden of proof.

Appellant may submit new evidence or argument, together 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 traumatic injury in the performance of duty on September 12, 2024, as alleged.

¹² *D.C.*, Docket No. 18-0314 (issued September 24, 2019); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

ORDER

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

Issued: January 28, 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