United States Department of Labor
Employees' Compensation Appeals Board

J.M., Appellant	)	
and	)	**Docket No. 25-0600**
	)	**Issued: July 16, 2025**
U.S. POSTAL SERVICE, BOGGS ROAD POST OFFICE, Duluth, GA, Employer	)	

Appearances:
Dexter Lee Lester, for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 5, 2025, appellant, through her representative, filed a timely appeal from a February 14, 2025 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.

[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*.

ISSUE

The issue is whether appellant has met her burden of proof to establish exposure to allergens, including mold, while in the performance of duty, as alleged.

FACTUAL HISTORY

On May 23, 2023, appellant, then a 47-year-old mail delivery specialist, filed an occupational disease claim (Form CA-2) alleging that she experienced an aggravation of allergic rhinitis due to factors of her federal employment, including exposure to allergens while delivering mail inside her long-life vehicle (LLV). She explained that she delivered mail in an employing establishment LLV and that she believed allergens were present in the LLV. Appellant asserted that she had a headache at the end of each day and that her symptoms would subside when she exited the truck. She further asserted that she did not feel that way in her own vehicle, at home, or in the building at work. Appellant noted that she first became aware of her condition on October 11, 2021, and realized its relation to her federal employment on May 8, 2023. Appellant did not stop work.

In support of her claim, appellant submitted a statement dated May 21, 2023, which explained that she had been a mail carrier since 2006 and spent six to seven hours per day inside an assigned LLV. She noted that she experienced seasonal allergies for which she sought treatment beginning in October 2021. On May 8, 2023, appellant noticed that after being in her LLV for 30 minutes, she experienced inflamed sinuses, a stuffy nose, a sinus headache, and difficulty breathing. The symptoms subsided once she went home. Appellant underwent testing, which she indicated revealed allergies to pollen and mold. She noted that she was exposed to pollen from the outside elements while driving her LLV and that the inside of the LLV had mold growth due to rainwater infiltration. Appellant requested light duty until the issues with her LLV were resolved.

Summaries of medical encounters for the period January 21, 2021 through May 21, 2023 listed diagnoses of chronic maxillary sinusitis, nasal turbinate hypertrophy, nasal congestion, chronic sphenoidal sinusitis, seasonal allergic rhinitis due to other allergic triggers, left ear fullness, perceived hearing loss, and new daily persistent headache. Dr. James Courtney French, a Board-certified otolaryngologist, and Helmly Keevil, a physician assistant, were listed as appellant's providers.

In a narrative report dated May 8, 2023, Dr. French noted that he had been treating appellant for sinus and allergy symptoms since 2021, and that January 2022 allergen testing was positive for weeds, grass, trees, mold, ragweed, and cats. He related that she noticed a musty smell in her LLV, developed headaches while driving the vehicle, and that her symptoms resolved when she was away from her LLV. Dr. French opined that appellant's exposure to the environment of her truck aggravated her underlying allergic rhinitis to the point that her routine medications were unable to control her symptoms while at work.

In a June 12, 2023 development letter, OWCP informed appellant of the deficiencies of her claim and advised her of the type of factual and medical evidence necessary to establish her claim. It afforded her 60 days to respond. In a separate development letter of even date, OWCP requested

that the employing establishment provide comments from a knowledgeable supervisor regarding the accuracy of appellant's statements. It afforded the employing establishment 30 days to respond.

In a follow-up development letter dated July 12, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the June 12, 2023 letter to submit the necessary evidence. OWCP further advised that if the necessary was not received during this time, it would issue a decision based on the evidence contained in the record. In a separate letter of even date, it sent the employing establishment a follow-up development letter, again requesting comments from a knowledgeable supervisor.

OWCP subsequently received additional evidence, including medical reports dated October 11, 2021 through January 13, 2022, wherein Dr. French diagnosed chronic sinusitis.

In a May 5, 2022 report, Dr. French noted that appellant had an adverse reaction to allergy shots and was wearing a mask while driving her LLV. He diagnosed seasonal allergic rhinitis.

In medical reports dated January 10, March 16, and April 14, 2023, Dr. French noted that appellant related symptoms of sinus pressure and nasal irritation, which she attributed to a musty smell in her LLV and "being outside in general." He documented physical examination findings and diagnosed post-nasal drip, seasonal allergic rhinitis due to other allergic trigger, acute maxillary sinusitis recurrence, and new daily persistent headache. Dr. French indicated that he had previously sent a letter to appellant's postmaster explaining that she could not tolerate exposure to irritants in her LLV and needed to be reassigned.

In a medical report dated July 14, 2023, Dr. Erinn Gardner, Board-certified in allergy, immunology, and internal medicine, noted that appellant related complaints of a stuffy, burning nose, headaches, postnasal drip, and congestion, which she attributed to working outdoors in a truck. She diagnosed allergic rhinitis due to house dust mites, cat or dog dander, and pollen. Dr. Gardner opined that working outdoors was aggravating and/or contributing to appellant's uncontrolled symptoms.

In an August 9, 2023 narrative report, Dr. French listed his treatment dates and noted appellant's symptoms, examination findings, test results, and treatment regimens. He related that "when she is in her LLV, her symptoms of nasal congestion, nasal drainage, and headache are amplified to a severe level after approximately 30 minutes of continuous time in the LLV." Dr. French noted that appellant was currently casing mail for two hours per day[3] and recommended that appellant be permitted to work out of another type of vehicle or in a nonvehicular job.

[3] On September 22, 2023, OWCP received the reverse side of a Form CA-2 dated June 1, 2023 in which D.P., an employing establishment manager, noted that appellant was "doing light duty, casing routes, delivering sections of routes."

OWCP also received food allergy and hearing test results and an April 24, 2023 computerized tomography (CT) scan of the sinuses, which revealed bilateral ostiomeatal complex stenosis, frontoethmoidal recess stenosis, and hypertrophy of the inferior turbinates.

In an August 31, 2023 response to OWCP's development letters, the employing establishment asserted that appellant was not exposed to chemicals and, therefore, air samples and safety data sheets were not applicable. It explained that all LLVs were equipped with a fan, and carriers were encouraged to use the fan, roll down windows, or wear a mask while delivering mail. The employing establishment also claimed that a manager personally cleaned appellant's LLV and had a professional contractor clean her LLV.

On September 28, 2023, OWCP received a report from a private mold testing company which identified the presence of spores of rhodotorula, mucor, rhizopus, and aureobasidium in samples appellant obtained on September 12, 2023. It also received photographs of her holding the testing kit, taking various swabs from inside the LLV, placing the swabs in plastic bags labeled with the date September 12, 2023, and of mold growth on the ceiling of the LLV.

In a decision dated September 28, 2023, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish the implicated employment exposure. It concluded, therefore, that she had not met the requirements to establish that she sustained an injury as defined by FECA.

On October 18, 2023, appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. In support thereof, she submitted an October 5, 2023 e-mail by A.B., her coworker, who indicated that she witnessed appellant obtain samples from the floor area and door of her assigned LLV. A.B. also noted that the employing establishment contracted a company to wash the trucks every month but that the trucks had not been washed since December 2022. A.B. indicated that her own assigned vehicle also had a musty odor.

Following a preliminary review, by decision dated November 30, 2023, OWCP's hearing representative vacated the September 28, 2023 decision and remanded the case to OWCP for further development.

OWCP again requested additional information from the employing establishment.

The employing establishment responded that it did not have any additional information in reference to appellant's claim. Appellant then disputed that the employing establishment had thoroughly cleaned her delivery vehicle to rid it of black mold, dirt, and dust.

In a March 13, 2024 narrative report, Dr. French noted that "per [appellant's] observation, when she is in the LLV for longer than several hours at a time, symptoms ramp up to an intolerable level including congestion, nasal drainage, and headache." He noted that the private mold test kit results provided some support for her assertion that there was mold present in her LLV but was otherwise limited on quantifying the amount of mold, species of mold, or air quality. Dr. French recommended that appellant be allowed to drive another type of vehicle, work as a counter clerk, or work on a route with apartment complexes to limit the amount of time spent in the LLV.

By *de novo* decision dated March 28, 2024, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish the implicated employment exposure. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 29, 2024, appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated July 12, 2024, OWCP's hearing representative vacated the March 28, 2024 decision and remanded the case to OWCP for additional development.

OWCP thereafter received a January 25, 2024 union grievance settlement, which indicated that the employing establishment would secure a van within 30 days for appellant to use on her route and, in the meantime, thoroughly clean her LLV with a union representative present, including removing all rivets on the base floor and providing a new seat. The employing establishment was also to find a mold cleaning specialist company to test for mold, clean, and remove it.

In a letter dated September 9, 2024, appellant related that the employing establishment had provided her with a new delivery vehicle and time and supplies to clean the vehicle at the start of her shift each morning. She related that her symptoms had greatly improved.

By *de novo* decision dated October 2, 2024, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish the implicated employment exposure. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On October 4, 2024, appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated February 14, 2025, OWCP's hearing representative affirmed the October 2, 2024 decision as appellant had not established exposure to mold.

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

[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).

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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[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. 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.[9] 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.[10]

ANALYSIS

The Board finds that appellant has met her burden of proof to establish exposure to mold in the performance of duty, as alleged.

Appellant filed a claim alleging that she experienced an aggravation of allergic rhinitis caused by exposure to allergens, including mold, in her LLV while in the performance of duty. In a statement dated May 21, 2023, she indicated that on or about May 8, 2023 she noticed that after being in her LLV for 30 minutes, she experienced inflamed sinuses, a stuffy nose, a sinus headache, and difficulty breathing, which subsided once she went home. Appellant related that she observed mold growth on the inside of the LLV which she believed was due to rainwater infiltration. In medical reports dated January 10, March 16, and April 14, 2023, Dr. French noted that appellant described a musty smell in her LLV. On September 12, 2023, appellant swabbed the inside of her LLV and sent the samples to a private mold testing company. She submitted photographs of the testing kit, her swabbing various areas of her LLV, and mold growth on the ceiling of the LLV. In a September 28, 2023 report, the private testing company identified the presence of mold spores,

[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] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

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

[10] *See M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

including rhodotorula, mucor, rhizopus, and aureobasidium. In an October 5, 2023 e-mail, A.B., appellant's coworker, indicated that she witnessed appellant obtain the samples from the floor area and door of her assigned LLV. A.B. also noted that the employing establishment contracted a company to wash the trucks every month, but the trucks had not been washed since December 2022. A.B. indicated that her own assigned vehicle also had a musty odor. A January 25, 2024 union grievance settlement indicated that the employing establishment was to find a mold cleaning specialist company to test for mold, clean, and remove it from the LLVs.

Appellant has maintained that she was exposed to mold in her LLV. 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.[11] There are no inconsistencies in the evidence sufficient to cast serious doubt upon the validity of the claim.[12] The employing establishment's responses did not refute appellant's allegation that she observed and was exposed to mold in her LLV while in the performance of duty. The Board, therefore, finds that the evidence of record establishes that the exposure to mold occurred, as alleged.[13]

As appellant has established the claimed occupational exposure to mold, the question becomes whether this exposure caused an injury.[14] As OWCP found that she 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.[15] After such further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met her burden of proof to establish an injury causally related to the accepted employment exposure to mold, and any attendant disability.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish exposure to mold in the performance of duty, as alleged.

[11] *E.S.*, Docket No. 22-1339 (issued May 16, 2023); *D.B.*, *id*.

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

[13] *See S.G.,* Docket No. 22-0014 (issued November 3, 2022); *J.H.,* Docket No. 20-1252 (issued February 5, 2021); *J.C.,* Docket No. 18-1803 (issued April 19, 2019); *M.C.*, *supra* note 10; *M.M.,* Docket No. 17-1522 (issued April 25, 2018).

[14] *See N.B.*, Docket No. 13-0513 (issued August 27, 2017).

[15] *L.G.*, Docket No. 21-0343 (issued May 9, 2023); *L.D.,* Docket No. 16-0199 (issued March 8, 2016).

ORDER

IT IS HEREBY ORDERED THAT the February 14, 2025 decision of the Office of Workers' Compensation Programs is reversed. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 16, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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