United States Department of Labor
Employees' Compensation Appeals Board

J.S., Appellant	)	
and	)	**Docket No. 25-0334**
	)	**Issued: March 21, 2025**
SOCIAL SECURITY ADMINISTRATION, Altoona, PA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 25, 2025 appellant filed a timely appeal from a January 2, 2025 merit decision of the Office of Workers Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 her burden of proof to establish an injury in the performance of duty on August 29, 2023, as alleged.

FACTUAL HISTORY

On August 31, 2023 appellant, then a 27-year-old contact representative, filed a traumatic injury claim (Form CA-1) alleging that on August 29, 2023 at 1:00 p.m. she dislocated her left shoulder when she fell in the employee parking lot while in the performance of duty. The

[1] 5 U.S.C. § 8101 *et seq*.

employing establishment indicated on the claim form that she was not in the performance of duty at the time of the alleged incident as she had gone "to her car to close her windows because it started to rain."

In a development letter dated June 24, 2024, OWCP requested that the employing establishment provide additional factual information, including whether the employee was injured in a parking lot that it controlled or managed. It afforded 30 days for the submission of the requested information.

In a July 24, 2024 development letter, OWCP informed appellant of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. It noted that the employing establishment asserted that she had been injured off premises while not in the performance of duty. OWCP afforded appellant 60 days to provide the necessary evidence.

In a letter dated September 4, 2024, OWCP notified appellant that it had performed an interim review and determined that the evidence remained insufficient to establish her claim. It advised that she had 60 days from the July 24, 2024 letter to submit the requested necessary 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.

On October 21, 2024 OWCP again requested that appellant submit factual evidence in support of her claim. It afforded her 60 days for the submission of the requested evidence.

In an October 31, 2024 response, appellant advised that she had been back from lunch about 10 minutes when a coworker told her that it had begun to rain. She related that she had left her car windows open and went to the lot where employees parked directly outside the building to close the windows. Appellant stepped wrong leaving the sidewalk and dislocated her shoulder. She related, "The point of injury was falling off of the sidewalk connected to the building." Appellant advised that she was not at lunch at the time of her fall.

By decision dated January 2, 2025, OWCP denied appellant's traumatic injury claim. It found that, while she was on the premises of the employing establishment at the time of the accepted employment incident, she was not engaged in an activity reasonably incidental to her employment and thus not in the performance of duty.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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,[3] 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

[2] *Id*.

[3] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.[4] 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.[5]

In providing for a compensation program for federal employees, Congress did not contemplate an insurance program against any and every injury, illness, or mishap that might befall an employee contemporaneous or coincidental with his or her employment. Liability does not attach merely upon the existence for an employee-employer relation. Instead, Congress provided for the payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.[6]

The Board has interpreted the phrase "sustained while in the performance of duty" to be the equivalent of the commonly found prerequisite in workers' compensation law of "arising out of and in the course of employment."[7] The phrase "in the course of employment" encompasses the work setting, the locale, and time of injury. The phrase "arising out of the employment" encompasses not only the work setting, but also a causal concept with the requirement being that an employment factor caused the injury.[8] To occur in the course of employment, in general, an injury must occur: (1) at a time when the employee may reasonably be said to be engaged in his or her master's business; (2) at a place where he or she may reasonably be expected to be in connection with his or her employment; and (3) while he or she was reasonably fulfilling the duties of his or her employment or engaged in doing something incidental thereto.[9] In deciding whether an injury is covered by FECA, the test is whether, under all circumstances, a causal relationship exists between the employment itself, or the conditions under which it is required to be performed and the resultant injury.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury in the performance of duty on August 29, 2023, as alleged.

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[4] *G.A.*, Docket No. 21-1362 (issued February 23, 2023); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *M.H.*, Docket No. 21-0891 (issued December 22, 2021); *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *See* 5 U.S.C. § 8102(a); *see A.D.*, Docket No. 25-0208 (issued February 20, 2025); *J.N.*, Docket No. 19-0045 (issued June 3, 2019).

[7] *See M.Z.*, Docket No. 20-1078 (issued December 16, 2022); *M.T.*, Docket No. 17-1695 (issued May 15, 2018); *S.F.*, Docket No. 09-2172 (issued August 23, 2010); *Valerie C. Boward*, 50 ECAB 126 (1998).

[8] *L.B.*, Docket No. 19-0765 (issued August 20, 2019); *G.R.*, Docket No. 16-0544 (issued June 15, 2017); *Cheryl Bowman*, 51 ECAB 519 (2000).

[9] *A.S.*, Docket No. 18-1381 (issued April 8, 2019); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Mary Keszler*, 38 ECAB 735, 739 (1987).

[10] *A.G.*, Docket No. 18-1560 (issued July 22, 2020); *J.C.*, Docket No. 17-0095 (issued November 3, 2017); *Mark Love*, 52 ECAB 490 (2001).

Appellant asserted that she dislocated her shoulder when she slipped and fell walking to her car in the employee parking lot on her way to roll up her car windows. She explained that she had returned from lunch around 10 minutes earlier and a coworker told her that it had begun to rain. Appellant asserted that the sidewalk where she fell was connected to her building.

OWCP accepted that appellant was on the premises of the employing establishment at the time the incident occurred. However, the mere fact that she was on the premises and on duty at the time of injury is not sufficient to establish entitlement to compensation benefits. Appellant must also be engaged in activities incidental to her employment, activities which fulfilled her employment duties or responsibilities thereto.[11]

In the case of *Barbara D. Heavener*,[12] the Board found a claimant's fall during work hours and on the premises of the employing establishment did not occur in the performance of duty. The claimant left her office building to retrieve an address book from her motor vehicle. The Board found that she was engaged in a personal mission unrelated to her employment and not in activities reasonably incidental to her employment.

In *Robert A. Pszczolkowski*,[13] a claimant was injured during working hours in a parking lot on the premises of the employing establishment when he left his building to get personal mail from his vehicle and fell on ice. The Board held that he was not in the performance of duty as his action was not reasonably incidental to employment but constituted a personal mission unrelated to employment. The Board further found that obtaining mail was not an activity necessary for personal comfort or ministration.

In *A.K.*,[14] a claimant was injured during working hours on the premises of the employing establishment while going to his vehicle to retrieve personal correspondence. The Board held that he was not in the performance of duty as his actions were personal in nature and not related to the employing establishment's business or reasonably incidental to his employment. It found that the claimant's activities could not be likened to incidental acts, such as using a toilet facility, drinking coffee or similar beverages, or eating a snack during a recognized break in the daily work hours, which are generally recognized as personal ministrations that do not take the employee out of the course of his or her employment.

[11] *See Barbara D. Heavener*, 53 ECAB 142 (2001).

[12] *Id*.

[13] Docket No. 01-1645 (issued April 11, 2002).

[14] Docket No. 09-2032 (issued August 3, 2010).

Appellant's injury occurred as she walked to her car to roll up the windows. Her actions were personal in nature and not related to the employing establishment's business or reasonable incidental to her employment.[15] The Board finds that appellant's activities cannot be likened to incidental acts, such as using a toilet facility,[16] drinking coffee or similar beverages[17] or eating a snack during a recognized break in the daily work hours.[18] The departure of appellant from her workstation to roll up the windows in her car is not considered an activity necessary for personal comfort or ministration or incidental to her employment. Therefore, she was not in the performance of duty when she fell on August 29, 2023. For these reasons, OWCP properly denied appellant's claim for an August 29, 2023 employment injury.[19]

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 her burden of proof to establish an injury in the performance of duty on August 29, 2023, as alleged.

[15] *See also Valerie C. Boward*, *supra* note 7 (where the Board found that an injury arising out of an employee's washing her car windows while on the employing establishment's premises did not occur in the performance of duty because she was engaging in a personal activity unrelated to her employment); *Mary Beth Smith*, 47 ECAB 747 (1996) (where the employee's injury on the employer's premise while picking up her child from day care did not occur in the performance of duty as her activity was purely personal in nature).

[16] *See V.O.*, 59 ECAB 500 (2008); *Frank M. Escalante*, 13 ECAB 160 (1961).

[17] *See Helen L. Gunderson*, 7 ECAB 707 (1955).

[18] *See Mary Kokich*, 52 ECAB 239 (2001); *see also Mary M. Martin*, 34 ECAB 525 (where the Board held that taking a walk was not an activity closely related to personal ministration).

[19] *See J.L.*, Docket No. 14-0368 (issued August 22, 2014).

ORDER

IT IS HEREBY ORDERED THAT the January 2, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 21, 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