United States Department of Labor
Employees' Compensation Appeals Board

J.B., Appellant	)	
	)	**Docket No. 25-0747**
and	)	**Issued: September 25, 2025**
U.S. POSTAL SERVICE, FORT POINT POST OFFICE, Boston, MA, Employer	)	

Appearances:
Appellant, pro se
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 25, 2025 appellant filed a timely appeal from a March 17, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] 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.[3]

[1] Appellant submitted a timely request for oral argument before the Board in connection with his appeal of the March 17, 2025 decision of OWCP. 20 C.F.R. § 501.5(b). In support of his oral argument request, appellant asserted that oral argument was necessary to help establish his claim for a work-related injury. Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). The Board, in exercising its discretion, denies appellant's request for oral argument because this matter requires an evaluation of the evidence of record. As such, the arguments on appeal can be adequately addressed in a decision based on a review of the case record. Oral argument in this appeal would not serve a useful purpose. Therefore, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the March 17, 2025 decision, appellant submitted additional evidence to OWCP. 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*.

ISSUE

The issue is whether appellant has met his burden of proof to establish that he was an employee of the United States under 5 U.S.C. § 8101(1) for the purpose of coverage under FECA at the time of his claimed injury on July 8, 2024.

FACTUAL HISTORY

On December 27, 2024 appellant, then 46 years old, filed an occupational disease claim (Form CA-2) alleging that he injured his ribs, noting that his pain worsened when he continued working after the injury.[4] He advised that the injury occurred at an address in Wakefield, Massachusetts. Appellant noted that he first became aware of his claimed condition on July 8, 2024, and realized its relation to factors of his federal employment on July 20, 2024.[5] On the reverse side of the form, N.F., an occupational health specialist for the employing establishment, advised that appellant was not an employing establishment employee at the time of the claimed injury. She stated, "Employee terminated from [the employing establishment] on [February 1,] 2024. This is for outside employment."

Appellant submitted medical evidence in support of his claim.

By letter dated January 8, 2025, N.F. controverted the claim, contending that the employing establishment's "records demonstrated that appellant was not an employee of the [employing establishment] on the date of injury, or at any time in the year 2022."

In a January 15, 2025 development letter, OWCP advised appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion.[6] OWCP afforded appellant 60 days to submit the necessary evidence. In a separate development letter dated January 15, 2025, OWCP requested that the employing establishment provide information regarding appellant's claim, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It noted that if there was disagreement, the employing establishment was to "explain

[4] On the claim form, appellant listed his occupation as "security clerical and assistant" and "teller vault driver." The location of where the injury occurred was noted as Wakefield, Massachusetts, but the duty station was noted as Boston, Massachusetts.

[5] OWCP assigned the present claim OWCP File No. xxxxxx547. Appellant filed additional claims on December 27, 2024, assigned OWCP File Nos. xxxxxx020 and xxxxxx013. In all three of these claims, OWCP found that appellant had not established that he was a covered employee under FECA. Also, appellant previously filed a claim for a January 18, 2024 traumatic injury, assigned OWCP File No. xxxxxx594, wherein OWCP found that appellant was an employee under FECA but denied the claim finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted employment incident. Appellant's claims have not been administratively combined by OWCP.

[6] Although appellant filed an occupational disease claim, OWCP developed the claim as a traumatic injury claim as he alleged that the July 8, 2024 injury occurred within a single workday or work shift. A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment over a period longer than a single workday or shift. 20 C.F.R. §§ 10.5(q), (ee); *R.V.,* Docket No. 18-1037 (issued March 26, 2019); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

fully and provide any appropriate supportive evidence." OWCP afforded the employing establishment 30 days to respond.

In a January 15, 2025 response, N.F. reiterated that appellant was not an employee at the time of injury. She further noted that, while appellant indicated on his claim form that he worked at an address in Wakefield, Massachusetts, that was the address for a security company, not a postal address. No additional evidence was received.

In a follow-up letter dated January 31, 2025, 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 January 15, 2025 letter to submit the 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.

In response, appellant submitted additional medical evidence.

By decision dated March 17, 2025, OWCP denied appellant's claim, finding that the evidence of record did not support that an employer/employee relationship existed at the time of the July 8, 2024 claimed injury as required for coverage under FECA. OWCP indicated that "the claim is denied because it is not established that you are a civil employee for the purpose of coverage under … FECA."

LEGAL PRECEDENT

FECA provides that the United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of her duty.[7] A claimant seeking compensation under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that the claimant was an employee within the meaning of FECA.[8]

For purposes of determining entitlement to compensation benefits under FECA, an employee is defined, in relevant part, as:

> "(A) a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;
>
> "(B) an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service or authorizes payment of travel or other expenses of the individual…."[9]

[7] 5 U.S.C. § 8102(a).

[8] *A.M.*, Docket No. 16-1038 (issued December 23, 2016); *Barbara L. Riggs*, 50 ECAB 133, 137 (1998).

[9] 5 U.S.C. § 8101(1).

With regard to whether a claimant is a federal employee for purposes of FECA, the Board has noted that such a determination must be made considering the particular facts and circumstances surrounding his or her employment.[10]

ANALYSIS

The Board finds that this case is not in posture for decision.

Appellant alleged that he sustained an injury on July 8, 2024 in the performance of duty. By letter dated January 8, 2025, N.F. controverted the claim, contending that the employing establishment's records demonstrated that appellant was not an employee of the [employing establishment] on the date of injury, or at any time in the year 2022." In a development letter dated January 15, 2025, OWCP requested that the employing establishment provide information regarding appellant's claim, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It noted that if there was disagreement, the employing agency was to "explain fully and provide any appropriate supportive evidence." OWCP afforded the employing establishment 30 days to respond. In a January 15, 2025 response, N.F. reiterated that appellant was not an employee at the time of injury. She further noted that, while appellant noted on his claim form that he worked at an address in Wakefield, Massachusetts, that was the address of a security company, not a postal address. However, no supportive evidence was received.

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter.[11] While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence, particularly when such evidence is of the character normally obtained from the employing establishment or other governmental source.[12] As the employing establishment has not sufficiently responded to OWCP's January 15, 2025 development letter, the Board is not in a position to make an informed decision regarding appellant's employment status.

The case shall therefore be remanded for further development. On remand, OWCP shall obtain the requested information from the employing establishment regarding whether appellant was an employee of the United States under 5 U.S.C. § 8101(1) for the purpose of coverage under FECA at the time of his claimed injury on July 8, 2024. Furthermore, for full and fair adjudication, it shall administratively combine appellant's claims under OWCP File Nos. xxxxxx547, xxxxxx020, xxxxxx594, and xxxxxx013. Following this and other such further development, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

[10] *S.R.*, Docket No. 20-0532 (issued July 25, 2023); *Donald L. Dayment*, Docket No. 01-1846 (issued January 21, 2003).

[11] *See L.S.,* Docket No. 18-1208 (issued April 30, 2020); *Phillip L. Barnes,* 55 ECAB 426 (2004).

[12] *See H.J.,* Docket No. 25-0667 (issued August 28, 2025); *A.D.,* Docket No. 24-0426 (issued July 8, 2025); *A.F.,* Docket No. 20-1635 (issued June 9, 2022); *N.S.,* 59 ECAB 422 (2008).

ORDER

IT IS HEREBY ORDERED THAT the March 17, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 25, 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