

**United States Department of Labor  
Employees' Compensation Appeals Board**

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<b>J.B., Appellant</b>	)	
	)	
and	)	<b>Docket No. 25-0753</b>
	)	
<b>U.S. POSTAL SERVICE, FORT POINT POST OFFICE, Boston, MA, Employer</b>	)	<b>Issued: September 16, 2025</b>
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*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). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**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 December 11, 2022.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> 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.*

## **FACTUAL HISTORY**

On December 27, 2024 appellant, then 46 years old, filed an occupational disease claim (Form CA-2) alleging that he cut his fingers when he performed his job, which involved locking cargo.<sup>3</sup> For the injury location, he listed an address in East Boston, Massachusetts. Appellant noted that he first became aware of his claimed condition and realized its relation to federal employment on December 11, 2022. On the reverse side of the form, N.F., an occupational health specialist for the employing establishment, advised that appellant was not working for the employing establishment on the date of the claimed injury. She noted that the claim was for “another job” and stated, “Not a[n] [employing establishment] employee.” OWCP assigned the claim OWCP File No. xxxxxx013.

On January 6, 2025 OWCP received a January 5, 2023 Commonwealth of Massachusetts injury report wherein appellant related that on December 11, 2022 he cut his fingers on both hands while locking a cargo pallet in a warehouse. He further reported that the injury occurred while he was employed by a cargo company and he identified the injury site by listing an address in East Boston, Massachusetts.

Appellant submitted medical evidence in support of his claim.

In a January 8, 2025 letter, N.F. advised that the employing establishment was challenging appellant’s claim for a December 11, 2022 injury. She stated, “Records demonstrate that the employee was not an employee of the [employing establishment] on the date of injury, or at any time [sic] in the year 2022.”

In a January 15, 2025 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual evidence needed and afforded him 60 days to submit the necessary evidence.<sup>4</sup> In a separate development letter dated January 15, 2025, OWCP requested that the employing establishment provide information, including whether appellant was a federal employee at the time of his claimed injury. It afforded the employing establishment 30 days to respond.

In a January 15, 2025 memorandum, OWCP noted that N.F. advised that appellant was not employed by the employing establishment on the date of the claimed injury or “the entire year of 2022.”

In a follow-up letter dated January 31, 2025, OWCP advised appellant that it had conducted an interim review, and had determined that 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

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<sup>3</sup> On the form, appellant listed his occupation as “warehousing” and “warehouse agent.”

<sup>4</sup> Although appellant filed an occupational disease claim, OWCP developed the claim as a traumatic injury claim as he alleged that the December 11, 2022 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).

issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated March 17, 2025, OWCP denied appellant's claim for a December 11, 2022 injury. It noted that the evidence of record did not support that an employer/employee relationship existed at the time of the 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.<sup>5</sup> 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.<sup>6</sup>

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 [g]overnment 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...."<sup>7</sup>

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.<sup>8</sup>

### **ANALYSIS**

The Board finds that appellant has not 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 December 11, 2022.

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<sup>5</sup> 5 U.S.C. § 8102(a).

<sup>6</sup> *A.M.*, Docket No. 16-1038 (issued December 23, 2016); *Barbara L. Riggs*, 50 ECAB 133, 137 (1998).

<sup>7</sup> 5 U.S.C. § 8101(1).

<sup>8</sup> *S.R.*, Docket No. 20-0532 (issued July 25, 2023); *Donald L. Dayment*, Docket No. 01-1846 (issued January 21, 2003).

The case record contains substantial evidence that appellant was not a federal employee when the injury was alleged to have occurred. On the reverse side of the form for the claimed December 11, 2022 injury, N.F. contended that appellant was not an employing establishment employee at the time of the claimed injury.

In a January 5, 2023 Commonwealth of Massachusetts injury report, appellant advised that on December 11, 2022 he cut his fingers on both hands while locking a cargo pallet in a warehouse while employed by a cargo company. However, he has not submitted evidence establishing that he was a covered employee within the meaning of FECA.

The Board thus finds that appellant has not established 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 December 11, 2022.

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 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 December 11, 2022.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 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