United States Department of Labor
Employees' Compensation Appeals Board

J.B., Appellant	)	
	)	**Docket No. 25-0753**
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). 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.[2]

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.

[1] 5 U.S.C. § 8101 *et seq*.

[2] 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.[3] 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 factors of his federal employment on December 11, 2022.[4] 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."

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. Appellant 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.

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 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.[5] In a separate development letter dated January 15, 2025, OWCP requested that the employing establishment provide information, 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 fully and provide any appropriate supportive evidence." OWCP afforded the employing establishment 30 days to respond.

[3] On the form, appellant listed his occupation as "warehousing" and referred to himself as a "warehouse agent."

[4] OWCP assigned the present claim OWCP File No. xxxxxx013. Appellant filed additional claims on December 27, 2024, assigned OWCP File Nos. xxxxxx020 and xxxxxx547. 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.

[5] 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).

On January 15, 2025, N.F. responded only that appellant was not employed by the employing establishment on the date of the claimed injury or "the entire year of 2022." No supporting evidence was received.

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 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.[6] 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.[7]

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…."[8]

[6] 5 U.S.C. § 8102(a).

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

[8] 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.[9]

ANALYSIS

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

Appellant claimed an injury in the performance of duty. On the reverse side of the claim 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." In a development letter dated January 15, 2025, OWCP requested that the employing establishment provide information, 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 fully and provide any appropriate supportive evidence." OWCP afforded the employing establishment 30 days to respond. On January 15, 2025 N.F. responded only that appellant was not employed by the employing establishment on the date of the claimed injury or "the entire year of 2022." No supporting evidence was received.

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter.[10] 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.[11] 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 December 11, 2022. 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.

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

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

[11] *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