United States Department of Labor
Employees' Compensation Appeals Board

D.S., Appellant	)	
and	)	**Docket No. 25-0809**
	)	**Issued: September 23, 2025**
DEPARTMENT OF DEFENSE, DEFENSE HEALTH AGENCY, EVANS ARMY COMMUNITY HOSPITAL, Fort Carson, CO, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 11, 2025 appellant filed a timely appeal from a June 16, 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]

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the June 16, 2025 decision, OWCP received additional evidence. 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 her burden of proof to establish a traumatic injury while in the performance of duty on February 21, 2025, as alleged.

FACTUAL HISTORY

On March 24, 2025 appellant then a 45-year-old cook, filed a traumatic injury claim (Form CA-1) alleging that on February 21, 2025 she sustained a back injury when washing dishes, lifting trash bags, and stooping while in the performance of duty. She further explained that she arose from stooping and felt intense pain on the right side of her body. On the reverse of the claim form, the employing establishment acknowledged that appellant was injured while in the performance of duty. Appellant stopped work on February 26, 2025.

Thereafter, OWCP received evidence in support of appellant's claim. In a note dated February 26, 2025, Dr. Casey Lockett, Board-certified in emergency medicine, examined appellant due to back pain and diagnosed lumbar radiculopathy and sciatica. On March 19, 2025 Richard Mraz, a physical therapist, provided treatment.

In a note dated March 19, 2025, Dr. Daniel M. Peterson, a Board-certified neurosurgeon, diagnosed lumbar strain and right lumbar radiculopathy. He opined that his objective findings were consistent with appellant's work-related mechanism of injury. Dr. Peterson released appellant to return to light-duty work. On April 1, 2025 Kevin Percy, a physician assistant, provided treatment.

In a development letter dated April 3, 2025, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP subsequently received additional evidence from Mr. Mraz and Mr. Percy.

In a March 19, 2025 form report, Dr. Peterson described appellant's employment incident of repetitive lifting and stooping. He indicated by checking a box marked "Yes" that his objective findings were consistent with the history. Dr. Peterson diagnosed lumbar strain and right lumbar radiculopathy. He provided work restrictions. A lumbar x-ray report of even date demonstrated mild degenerative changes at L5-S1 and no acute osseous findings.

In a follow-up letter dated May 12, 2025, 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 April 3, 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 June 16, 2025, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the alleged employment activities occurred on February 21, 2025, as alleged. Thus, it concluded that the requirements to establish an injury, as defined by FECA, had not been met.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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, 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 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]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.[6]

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.[7] 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.[8]

ANALYSIS

The Board finds that appellant has met her burden of proof to establish that a traumatic incident occurred in the performance of duty on February 21, 2025, as alleged.

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[3] *Supra* note 1.

[4] *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] *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[6] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[7] *T.T.*, Docket No. 22-0792 (issued October 18, 2022); *C.M.*, Docket No. 20-1519 (issued March 22, 2021); *Betty J. Smith*, 54 ECAB 174 (2002).

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

In her Form CA-1, appellant alleged that she injured her back on February 21, 2025 while washing dishes, lifting trash bags, and stooping at work. The employing establishment acknowledged that the incident occurred while she was in the performance of duty. Further, the medical evidence contemporaneous with the alleged February 21, 2025 employment incident establishes that appellant sought medical treatment on February 26, 2025, the date of injury. Dr. Peterson, in his March 19, 2025 report, described appellant's employment incident of repetitive lifting and stooping and diagnosed lumbar strain and right lumbar radiculopathy.

The incident that appellant described is consistent with the facts and circumstances she set forth and her course of action. As noted, an employee's statement as to how the injury occurred is of great probative value and will stand unless refuted by strong or persuasive evidence.[9] There are no inconsistencies in the evidence of record that cast serious doubt upon the validity of the claim.[10] And thus the Board finds that appellant has met her burden of proof to establish that a traumatic incident occurred in the performance of duty on February 21, 2025, as alleged.

As appellant has established that an incident occurred in the performance of duty on February 21, 2025, as alleged, the question becomes whether the incident caused an injury.[11] 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.[12] After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision adjudicating whether the medical evidence of record is sufficient to establish causal relationship between a diagnosed medical condition and the accepted February 21, 2025 employment incident.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish that a traumatic incident occurred in the performance of duty on February 21, 2025, as alleged.

[9] *Id. See also N.F.,* Docket No. 25-0494 (issued June 4, 2025); *J.K.*, Docket No. 25-0292 (issued March 3, 2025); *J.A.*, Docket No. 24-0919 (issued October 25, 2024); *M.S.*, Docket No. 24-0258 (issued May 20, 2024); *C.C.*, Docket No. 10-2054 (issued July 8, 2011).

[10] *Supra* note 7.

[11] *M.S.*, Docket No. 23-0731 (issued January 5, 2024); *L.G.*, Docket No. 21-0343 (issued May 9, 2023); *M.A.*, Docket No. 19-0616 (issued April 10, 2020); *C.M.*, Docket No. 19-0009 (issued May 24, 2019).

[12] *D.F.*, Docket No. 21-0825 (issued February 17, 2022); *L.D.*, Docket No. 16-0199 (issued March 8, 2016); *Betty J. Smith, supra* note 7.

ORDER

IT IS HEREBY ORDERED THAT the June 16, 2025 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 23, 2025
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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