

ISSUE

The issue is whether appellant has met his burden of proof to establish an injury in the performance of duty on December 11, 2018, as alleged.

FACTUAL HISTORY

On October 2, 2023 appellant, then a 69-year-old rural letter carrier, filed a traumatic injury claim (Form CA-1) alleging that at 6:45 a.m., on December 18, 2018, he tore his right shoulder cuff in the performance of duty. He explained that he was on his way to work when he stopped for food and gas for his personal vehicle, which he used to deliver mail. Appellant slipped on ice and fell as he left the fast-food restaurant to return to his vehicle. His regular work hours were noted as 8:00 a.m. to 4:30 p.m. On the reverse side of the claim form, T.B., appellant's supervisor, indicated that it was unknown whether appellant was in the performance of duty.

In a development letter dated October 16, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded him 60 days to submit the necessary evidence.

Appellant subsequently submitted an area map, indicating that the employing establishment was only 11.1 miles from his home and the fast-food restaurant where he stopped was directly on the route from his home to the employing establishment. OWCP also received medical evidence, including December 13, 2018 and May 8, 2019 right shoulder magnetic resonance imaging (MRI) scan reports, and a January 2, 2019 right shoulder surgical report.

OWCP also received an October 23, 2023 statement, wherein appellant explained that he used his personal vehicle to deliver his mail route, which consisted of 78 miles of road travel. While traveling from his home to the employing establishment on December 11, 2018, he stopped to pick up breakfast for himself and his coworkers, and to refuel his vehicle. Appellant noted that both the fast-food restaurant and the nearby gas station were on the direct route from his home to the employing establishment. While leaving the restaurant, appellant slipped on ice on the sidewalk and fell backward onto his right shoulder. He then proceeded to refuel his vehicle and drove to the employing establishment. Appellant stated that, when he informed Postmaster T.W. of his injury, Postmaster T.W. told him that his fall and subsequent injury was not covered by workers' compensation. Appellant then sought medical treatment, and his December 13, 2018 MRI scan showed a complete rotator cuff tear and a superior labrum, anterior to posterior (SLAP) tear of his labrum. He underwent surgery on January 2, 2019 to repair his right shoulder conditions.

In response to OWCP's October 16, 2023 development questionnaire, appellant explained that on his way to the employing establishment he stopped to pick up a meal for himself and his coworkers and to refuel his vehicle. He noted that the distance between the gas station and the fast-food restaurant was 520 feet, and that he drove directly to the employing establishment after he purchased fuel for his vehicle. Appellant stated that he arrived at the employing establishment at 7:30 a.m. He indicated that the rural carriers were on an evaluated route, meaning the earlier the rural carrier arrived, the earlier the route was completed, and there were no "regular work hours." Appellant indicated that 7:00 a.m. was the usual arrival time, both then and now, so that carriers could catch the departing 4:30 p.m. truck. He further indicated that, in December 2018, everyone came in early, because the mail volume increased substantially during the holiday season.

Appellant also stated that, on December 11, 2018, he had left home a little earlier than normal due to treacherous ice/snow conditions.

In a November 6, 2023 statement, the employing establishment challenged appellant's claim. It explained that, under its policies, rural carriers are considered to be in the performance of duty for purposes of FECA when driving their own vehicle between their home and the employing establishment, and between the employing establishment and their home, provided that the employing establishment required the carrier to furnish the vehicle. It further explained that rural carriers are required to stay on an established designated path when commuting to and from work and home in the vehicle they use in delivering mail.

In a statement dated December 5, 2023, C.W., a coworker, confirmed that appellant had reported the work incident to Postmaster T.W. on or about December 11, 2018, but T.W. refused to provide appellant a claim form.

In a December 7, 2023 statement, appellant asserted that there were no employer-approved lunch or bathroom stops on his rural route, and that he was limited to stops both before and after his route to obtain food or use the restroom.

By decision dated January 18, 2024, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish an injury and/or medical condition that arose during the course of employment and within the scope of compensable work factors as defined by FECA.

On January 19, 2024, appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

A hearing was held on April 19, 2024. Appellant testified that he usually purchased gas and food on his way to work as there are no stores on his rural mail route.

By letter dated May 20, 2024, the employing establishment further controverted appellant's claim.

In a May 21, 2024 statement, appellant further described the December 11, 2018 incident. He also submitted additional medical evidence.

By decision dated July 8, 2024, OWCP's hearing representative affirmed the January 18, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including the fact 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 period of FECA,⁵ 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

⁴ *Id.*

⁵ S.S., Docket No. 19-1815 (issued June 26, 2020); S.B., Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

to the employment injury.⁶ 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.⁷

The phrase “sustained while in the performance of duty” has been interpreted by the Board to be the equivalent of the commonly founded prerequisite in workers’ compensation law of “arising out of and in the course of employment.”⁸ To arise in the course of employment, in general, an injury must occur: (1) at a time when the employee may reasonably be stated to be engaged in the master’s business; (2) at a place when 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 the 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

It is a well-established principle that where the employee, as part of his or her job, is required to bring along his or her own car, truck, or motorcycle for use during the working day, the trip to and from work is, by that fact alone, embraced within the course of employment. Because rural carriers may use their own transportation to deliver their routes, which is a benefit to the employing establishment, they may be deemed to be in the performance of their duties when they are driving their vehicles to and from their route, when they are required by the employing establishment to provide their own transportation.¹¹

OWCP’s procedures include letter carriers in a class of off-premises workers.¹² In determining whether this class of employees has sustained an injury in the performance of duty, the factual evidence must be examined to ascertain whether, at the time of injury, the employee is within the period of the employment, at a place where the employee reasonably may be, and while the employee is fulfilling employment duties, or engaged in activities reasonably incidental thereto.¹³ By the nature of their work, letter carriers are on the premises of the employer for only part of each working day and it follows that many of their injuries are sustained away from the industrial premises.¹⁴

⁶ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *C.L.*, Docket No. 19-1985 (issued May 12, 2020); *S.F.*, Docket No. 09-2172 (issued August 23, 2010); *Valerie C. Boward*, 50 ECAB 126 (1998).

⁹ *K.R.*, Docket No. 21-0308 (issued May 16, 2022); *S.V.*, Docket No. 18-1299 (issued November 5, 2019); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Mary Keszler*, 38 ECAB 735, 739 (1987).

¹⁰ *K.R.*, *id.*; *Mark Love*, 52 ECAB 490 (2001).

¹¹ *C.C.*, Docket No. 20-0759 (issued September 22, 2021); *L.T.*, Docket No. 09-1798 (issued August 5, 2010).

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.5a(1). See *Donna K. Shuler*, 38 ECAB 273 (1986).

¹³ *David P. Sawchuk*, 57 ECAB 316 (2006); *Thomas E. Keplinger*, 46 ECAB 699 (1995).

¹⁴ *Supra* note 12 at Chapter 2.804.5c(1).

In determining whether an injury occurs in a place where the employee may reasonably be or constitutes a deviation from the course of employment, the Board will focus on the nature of the activity in which the employee was engaged and whether it is reasonably incidental to the employee's work assignment or represented such a departure from the work assignment that the employee becomes engaged in personal activities unrelated to his or her employment.¹⁵

It is well established that an identifiable deviation from a business trip for personal reasons takes the employee out of the course of his employment until he or she returns to the route of the business trip, unless the deviation is so small as to be disregarded as insubstantial.¹⁶

ANALYSIS

The Board finds that appellant has met his burden of proof to establish an injury in the performance of duty on December 11, 2018, as alleged.

The case record establishes that appellant used his personal vehicle to deliver mail as a rural letter carrier. On his way from his home to the employing establishment on December 11, 2018, he stopped to pick up a meal and to refuel his vehicle in preparation for delivering mail that day. A map showed that the employing establishment was only 11.1 miles from his home and the fast-food restaurant where he stopped was directly on the route from his home to the employing establishment. The gas station where he refueled was only 520 feet from the fast-food restaurant. It was reasonably necessary for appellant to pick up a meal for himself prior to his work shift because there were no employer-approved stops on his rural route, which consisted of 78 miles of road travel. Furthermore, the act of refueling prior to the start of his work shift was also reasonably incidental to his employment as he was required to use his personal vehicle to deliver mail. The Board thus finds that appellant's stopping to pick up food and refuel was not a substantial deviation from his employment.¹⁷

Additionally, the Board notes that appellant had left the restaurant and was returning to his car to refuel when he slipped on ice and fell. After his fall, he then proceeded to refuel and resume his usual route driving directly to the employing establishment. The Board has long held that, once a personal deviation has been completed and the main business route is resumed, an employee is once again in the performance of duty.¹⁸

The Board thus finds that appellant was in the performance of duty when he sustained injury on December 11, 2018.¹⁹

As the Board finds that appellant was in the performance of duty when injured, the case must be remanded for consideration of the medical evidence of record. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision addressing

¹⁵ See *C.P.*, Docket No. 22-1215 (issued March 5, 2025); *V.O.*, 59 ECAB 500 (2008); *R.S.*, 58 ECAB 660 (2007); *Phyllis A. Sjoberg*, 57 ECAB 409 (2006).

¹⁶ *S.M.*, Docket No. 16-0875 (issued December 12, 2017).

¹⁷ See *id.*

¹⁸ *Id.*

¹⁹ *Id.*

whether appellant has met his burden of proof to establish a medical condition causally related to the accepted December 11, 2018 employment incident.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish an injury in the performance of duty on December 11, 2018, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the July 8, 2024 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: August 27, 2026
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