

B.H., Appellant

and

**U.S. POSTAL SERVICE, NORTH TEXAS
PROCESSING & DISTRIBUTION CENTER,
Coppell, TX, Employer**

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 26, 2026 appellant, through counsel, filed a timely appeal from a November 3, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the November 3, 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 his burden of proof to establish a traumatic injury in the performance of duty on July 17, 2024, as alleged.

FACTUAL HISTORY

On July 31, 2024 appellant, then a 60-year-old tractor trailer operator, filed a traumatic injury claim (Form CA-1) alleging that on July 17, 2024 at 1:30 a.m. he injured his hip, left foot, left toenail, and shoulders while in the performance of duty.⁴ He indicated that he tripped on a raised dock plate and fell onto the floor of his trailer. On the reverse side of the claim form, appellant's supervisor controverted the claim, contending that appellant had recently returned to work after being out for one year due to a similar injury, that he was on leave without pay since July 12, 2024, and that he did not work on July 17, 2024. The supervisor also noted that he attempted to enter appellant's last day of work before July 17, 2024 on the Form CA-1 but the system would not allow him to do so.

In a development letter dated August 8, 2024, 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 appellant 60 days to submit the necessary evidence. No additional evidence was submitted.

In a follow-up letter dated September 3, 2024, 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 August 8, 2024 letter to submit the requested 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 evidence was received.

By decision dated October 7, 2024, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the July 17, 2024 employment incident. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On November 15, 2024 appellant submitted a response to OWCP's questionnaire, which indicated that he confirmed with his supervisor that his last day of work was July 10, 2024. He noted that his date of injury was July 10, 2024, and requested that OWCP disregard the date of injury listed on his July 31, 2024 CA-1 form.

OWCP subsequently received magnetic resonance imaging (MRI) scans of the right hip, left ankle, and left foot dated August 26, 2024, which noted a clinical history of "fall in July of 2024" and demonstrated a possible right paraspinal muscular strain and degenerative disease in the left tibiotalar joint and forefoot. MRI scans of the shoulders dated September 6, 2024 demonstrated bilateral mild osteoarthritis, an articular surface partial thickness tear at the interface

⁴ OWCP assigned the present claim OWCP File No. xxxxxx949. Appellant previously filed a Form CA-1 for a June 25, 2021 injury, which OWCP accepted for cervical radiculopathy and sprains of the left shoulder, neck, right ankle, and lumbar spine under OWCP File No. xxxxxx596. OWCP has not administratively combined the claims.

between the supraspinatus and infraspinatus tendons of the left rotator cuff, and a possible glenoid labrum tear in the right shoulder.

In an October 1, 2024 medical report, Dr. Terry Madsen, a Board-certified orthopedic surgeon, noted that appellant related a history that on July 10, 2024 at 1:30 a.m., his left foot was caught under the lip of a dock plate, causing him to twist his left foot, left ankle, and right hip and fall to the floor. He documented physical examination findings and reviewed the MRI scans. Dr. Madsen diagnosed tendinitis and a labrum tear in the right shoulder, tendinitis and a traumatic incomplete tear of the left rotator cuff, strains of the right hip and left ankle, a left great toe contusion with damage to the toenail, and left plantar fasciitis causally related to the July 10, 2024 fall at work. He explained that the fall caused excessive force and strain beyond the tensile strength of appellant's tendons and joints.

On March 11, 2025 appellant requested reconsideration of OWCP's October 7, 2024 decision.

OWCP subsequently received a July 31, 2024 medical report by Dr. Madsen, who noted a history that appellant tripped on a raised dock plate and fell at work on July 17, 2024. He documented physical examination findings and diagnosed strains of the right rotator cuff, right hip, and left ankle, left shoulder tendinitis and tear, and left great toe contusion with damage to nail causally related to the July 17, 2024 fall at work.

In an October 30, 2024 follow-up report, Dr. Madsen indicated that appellant had been approved for surgery to his left shoulder "on another work injury claim" and that he was under the care of a pain management physician "for pain meds on his other work injury claim."

OWCP also received physical therapy reports.

In an October 3, 2025 letter, OWCP advised the employing establishment that appellant had filed a request for reconsideration of its October 7, 2024 decision. It also provided his reconsideration request and the evidence submitted, including his November 15, 2024 response to its questionnaire. OWCP afforded the employing establishment 20 days to respond.

In an October 6, 2025 agency response, the employing establishment indicated that it had no additional information.

By decision dated November 3, 2025, OWCP modified the October 7, 2024 decision to reflect that appellant failed to establish a traumatic injury in the performance of duty, as alleged.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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

⁵ *Supra* note 1.

limitation of FECA,⁶ 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.⁷ 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.⁸

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 that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁹

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.¹⁰ In determining whether a case has been established, such circumstances as late notification of injury, lack of confirmation of injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on the employee's statements. 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.¹¹ An employee's statements 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.¹²

ANALYSIS

The Board finds that appellant has met his burden of proof to establish that a traumatic incident occurred in the performance of duty on July 10, 2024, as alleged.

In his July 31, 2024 Form CA-1, appellant related that on July 17, 2024 he tripped on a raised dock plate and fell onto the floor of his trailer. In response to OWCP's questionnaire, he indicated that he confirmed with his supervisor that the last day he worked was July 10, 2024, which was his date of injury. In making this clarification, appellant requested that OWCP disregard the July 17, 2024 date listed on the Form CA-1. On the reverse side of the Form CA-1,

⁶ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ *K.E.*, Docket No. 22-0110 (issued March 8, 2023); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁸ *J.J.*, Docket No. 22-0957 (issued March 29, 2023); *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁹ *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).

¹⁰ *J.H.*, Docket No. 22-1113 (issued March 7, 2023); *S.W.*, Docket No. 17-0261(issued May 24, 2017).

¹¹ *D.F.*, Docket No. 21-0825 (issued February 17, 2022); *Betty J. Smith*, 54 ECAB 174 (2002).

¹² *D.F.*, *id.*; *see also M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

appellant's supervisor noted that he was on leave without pay since July 12, 2024, that appellant did not work on July 17, 2024, and that he tried to enter a last day of work before July 17, 2024 on the Form CA-1 but the system would not allow him to do so. In medical reports dated July 31 and October 10, 2024, Dr. Madsen related a history that appellant tripped on a raised dock plate and fell at work. Although he initially noted the date of injury of July 17, 2024 in his July 31, 2024 report, he subsequently corrected the date of injury to July 10, 2024 in his October 10, 2024 report.

As noted, an employee's statement alleging that an injury occurred at a given time and place, and in a given manner, is of great probative value and will stand unless refuted by strong or persuasive evidence.¹³ There are no inconsistencies in the evidence sufficient to cast serious doubt upon the validity of the claim.¹⁴ Therefore, the Board finds that appellant has met his burden of proof to establish that a traumatic incident occurred in the performance of duty on July 10, 2024, as alleged.

As appellant has established that an incident occurred in the performance of duty on July 10, 2024, as alleged, the question becomes whether the incident caused an injury.¹⁵ The case must, therefore, be remanded for consideration of the medical evidence of record.¹⁶ After such further development as deemed necessary, OWCP shall issue a *de novo* decision addressing whether appellant has met his burden of proof to establish an injury causally related to the accepted July 10, 2024 employment incident, and any attendant disability.

CONCLUSION

The Board finds that appellant has met his burden of proof to establish that a traumatic incident occurred in the performance of duty on July 10, 2024, as alleged.

¹³ *Id.*; *E.S.*, Docket No. 22-1339 (issued May 16, 2023); *D.B.*, 58 ECAB 464 (2007).

¹⁴ *E.S.*, *id.*

¹⁵ *D.F.*, *supra* note 11; *M.A.*, Docket No. 19-0616 (issued April 10, 2020); *C.M.*, Docket No. 19-0009 (issued May 24, 2019).

¹⁶ *L.G.*, Docket No. 21-0343 (issued May 9, 2023); *L.D.*, Docket No. 16-0199 (issued March 8, 2016).

ORDER

IT IS HEREBY ORDERED THAT the November 3, 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: July 8, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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