

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 January 8, 2022.

FACTUAL HISTORY

This case has previously been before the Board.² The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On December 27, 2024 appellant, then a 46-year-old warehouse agent, filed an occupational disease claim (Form CA-2) alleging that he injured his legs and knees when he slipped on ice and fell to the ground.³ He noted that he first became aware of his claimed condition and realized its relation to factors of his federal employment on January 8, 2022.⁴ 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 at the time of the claimed injury. She stated, "This is not a[n] [employing establishment] claim."

Appellant submitted medical evidence in support of his claim.

In a January 15, 2025 development letter, OWCP informed appellant of the deficiencies of the claim. It advised him of the type of factual and medical evidence needed, including factual evidence to support that he sustained a work injury while he was a federal employee. OWCP afforded appellant 60 days to respond. In a separate development letter dated January 15, 2025, it requested that the employing establishment provide information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. OWCP afforded the employing establishment 30 days to respond.

On January 15, 2025 N.F. responded that appellant was not employed by the employing establishment in 2022. Rather, she stated that "he was working for 'Housing' (Warehouse)." 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 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.

² Docket No. 25-0748 (issued September 25, 2025).

³ On the claim form, appellant listed his occupation as "housing" and referred to himself as a "warehouse agent."

⁴ OWCP assigned the present claim OWCP File No. xxxxxx020. Appellant has additional claims before OWCP under OWCP File Nos. xxxxxx547, xxxxxx013, xxxxxx174, and xxxxxx594. OWCP has administratively combined OWCP File Nos. xxxxxx020, xxxxxx547, xxxxxx013, xxxxxx174, and xxxxxx594, with the latter serving as the master file.

In response, appellant submitted a September 7, 2024 report, wherein an attending physician mentioned appellant's reporting of a January 18, 2024 injury while working for the employing establishment. He also resubmitted evidence previously of record.

By decision dated March 19, 2025, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that an employer/employee relationship existed at the time of the claimed injury as required for coverage under FECA.

Appellant appealed to the Board. By decision dated September 25, 2025, the Board set aside OWCP's March 19, 2025 decision,⁵ finding that the Board was not in a position to make an informed decision regarding appellant's employment status, as the employing establishment had not sufficiently responded to OWCP's January 15, 2025 development letter. The Board remanded the case to OWCP for further development, including requesting 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 January 8, 2022 alleged injury. The Board directed OWCP, following this and other such further development, to issue a *de novo* decision.

In an October 28, 2025 development letter, OWCP requested that appellant clarify whether he was claiming an occupational disease or traumatic injury.⁶ It further requested that he provide information regarding his employment status. In a separate development letter dated October 28, 2025, OWCP requested that the employing establishment provide additional information regarding appellant's claim, including information regarding his employment status. OWCP afforded both parties 30 days to respond.

On October 29, 2025 OWCP received several notification of personnel action forms (PS Form 50) from the employing establishment. A May 4, 2021 PS Form 50 documented that appellant became a temporary city carrier assistant for the employing establishment, effective May 10, 2021. A May 17, 2021 PS Form 50 documented that, due to his failure to pass his driving qualification, appellant was separated from the temporary city carrier assistant position, effective May 14, 2021. A December 30, 2021 PS Form 50 documented that appellant became a temporary city carrier assistant for the employing establishment, effective August 2, 2021. A March 2, 2022 PS Form 50 documented that appellant voluntarily resigned from the temporary city carrier assistant position, effective November 22, 2021. A November 27, 2023 PS Form 50 documented that appellant became a part-time flexible city carrier for the employing establishment, effective December 2, 2023. A February 12, 2024 PS Form 50 documented that appellant was separated from his part-time flexible city carrier position for "disqualification conditions," effective February 1, 2024.

⁵ *Supra* note 2.

⁶ 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).

OWCP also received a statement in which the employing establishment indicated that it did not have any information regarding appellant's private sector work.

On November 29, 2025 OWCP received a January 5, 2023 state injury report wherein appellant related that on February 11, 2022 his skin was burned by chemicals in a warehouse. Appellant further reported that this injury occurred while he was employed by a private company.

By *de novo* decision dated December 4, 2025, OWCP denied appellant's claim. It noted that the evidence of record was insufficient to establish a federal employer/employee relationship existed at the time of the January 8, 2022 alleged injury as required for 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.⁷ 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.⁸

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....”⁹

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.¹⁰

⁷ 5 U.S.C. § 8102(a).

⁸ *A.M.*, Docket No. 16-1038 (issued December 23, 2016); *Barbara L. Riggs*, 50 ECAB 133, 137 (1998).

⁹ 5 U.S.C. § 8101(1).

¹⁰ *S.R.*, Docket No. 20-0532 (issued July 25, 2023); *Donald L. Dayment*, Docket No. 01-1846 (issued January 21, 2003).

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 January 8, 2022.

On the reverse side of the December 27, 2024 claim form, N.F. advised that appellant was not working for the employing establishment at the time of the claimed injury. She stated, “This is not a[n] [employing establishment] claim.” On January 15, 2025 N.F. advised that appellant was not employed by the employing establishment in 2022. Rather, she stated that “he was working for ‘Housing’ (Warehouse).” Appellant did not submit evidence establishing that he was a federal employee such that he would be a covered employee within the meaning of FECA at the time of the claimed January 8, 2022 injury.

After the Board’s September 25, 2025 decision remanding the case for further development of appellant’s employment status on January 8, 2022 on October 29, 2025 OWCP received a statement in which the employing establishment indicated, “The [employing establishment] does not have any information for a position outside of the [employing establishment].”

A March 2, 2022 PS Form 50 documented that appellant voluntarily resigned from the temporary city carrier assistant position, effective November 22, 2021. OWCP did not receive a PS Form 50 pertaining to the entire year of 2022. The next PS Form 50 received by OWCP documented that appellant became a part-time flexible city carrier for the employing establishment, effective December 2, 2023.

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 January 8, 2022. As he was not a federal employee under FECA as of January 8, 2022, OWCP properly denied his claim for an injury on that date.¹¹

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.

¹¹ See *supra* notes 6 through 9.

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 January 8, 2022.

ORDER

IT IS HEREBY ORDERED THAT the December 4, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 28, 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