United States Department of Labor
Employees' Compensation Appeals Board

J.J., Appellant	)	
and	)	**Docket No. 26-0537**
	)	**Issued: September 16, 2026**
U.S. POSTAL SERVICE, MINNEAPOLIS POST OFFICE, Minneapolis, MN, Employer	)	

Appearances:
Alan J. Shapiro, for the appellant[1]
Office of Solicitor, for the Director

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 May 26, 2026 appellant, through counsel, filed a timely appeal from a May 6, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[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*.

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury in the performance of duty on January 26, 2025, as alleged.

FACTUAL HISTORY

On February 6, 2025 appellant, then a 44-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on January 26, 2025 he tore his left shoulder when lifting and carrying packages while in the performance of duty. On the reverse side of the claim form, D.C., a postmaster and appellant's supervisor, acknowledged that appellant was injured in the performance of duty. Appellant stopped work on June 18, 2025. He resigned from the employing establishment on July 9, 2025.

In a February 4, 2025 report, Monica B. McDevitt, an advanced practice registered nurse, noted that appellant reported acute left shoulder pain that began two weeks ago at work while moving a large box. She noted that appellant denied any previous injury to the area. Ms. McDevitt diagnosed acute left shoulder pain.

A February 4, 2025 x-ray of appellant's left shoulder revealed normal alignment of the glenohumeral and acromioclavicular (AC) joint with no acute fracture or dislocation.

In a February 7, 2025 report, Dr. Kenji P. Sudoh, a Board-certified orthopedic surgeon, reported that on January 19, 2025 appellant used his left arm to lift and set down a heavy package and experienced several pops in the left shoulder with pain while reaching back into his truck for another package. He diagnosed left shoulder rotator cuff tear, potential labral tear and recommended a magnetic resonance imaging (MRI) scan of the left shoulder.

In a February 19, 2025 report, Dr. Sudoh continued to diagnose left shoulder rotator cuff tear. In a work status report of even date, he noted a January 19, 2025 date of injury and a diagnosis of traumatic incomplete tear of left rotator cuff.

In an April 11, 2025 note, appellant related that he tore his rotator cuff while working. He indicated that he had notified his supervisor on the date of injury, which was January 19, 2025.

In a development letter dated May 29, 2025, 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. The questionnaire noted that appellant had provided inconsistent dates of injury, it requested that he clarify the inconsistencies and clarify the facts surrounding his injury. OWCP afforded appellant 60 days to submit the necessary evidence. No additional evidence was received.

In a follow-up letter dated June 25, 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 May 29, 2025 letter to submit the requested necessary evidence. OWCP further advised that if the evidence requested was not received during this time, it would issue a decision based on the evidence contained in the record.

A duplicate copy of Ms. McDevitt's February 4, 2025 report was received.

By decision dated July 29, 2025, OWCP denied appellant's traumatic injury claim, finding that he failed to establish the factual component of his claim as the evidence did not support that the injury and/or event occurred on January 26, 2025, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On August 1, 2025 appellant, through then-counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

An August 11, 2025 MRI scan of appellant's left shoulder related an impression of acromioclavicular (AC) arthrosis with marrow edema, mild supraspinatus tendinosis, mild glenohumeral arthrosis with subchondral cysts, and small tears of the posterior inferior labrum and the superior labrum.

In an August 22, 2025 report, Dr. Sudoh reviewed the August 11, 2025 MRI scan, which he related demonstrated severe arthritis of the AC joint. He provided an impression of left shoulder severe arthritis with impingement.

In an August 27, 2025 report, Dr. Michael T. Torchia, a Board-certified orthopedic surgeon, reported that appellant's chronic left shoulder pain began "atraumatically." He diagnosed appellant with chronic left shoulder pain likely from a combination of biceps/labral pain generator and AC joint arthritis.

In an October 31, 2025 report, Dr. Torchia continued to diagnose chronic left shoulder pain likely from a combination of biceps/labral pain generator and AC joint arthritis. He indicated that appellant was a reasonable candidate for surgery. On November 20, 2025 appellant underwent a left shoulder arthroscopy, subacromial decompression, open distal clavicle excision and bicep tenodesis, which was performed by Dr. Torchia.

An oral hearing was held on March 3, 2026. Appellant testified that his injury occurred when he felt a sharp pain in his left shoulder while picking up a heavy box at work. He further testified that he believed the injury occurred on a Sunday sometime in December 2024, probably December 18, 2024. Appellant also testified that he had completed an accident report with D.C., his supervisor, about a week after his injury but he did not receive a copy of the accident report. He stated that January 19, 2025 was the date he went to the doctor. The hearing representative left the record open for 30 days to allow appellant to clarify the date of injury and to submit medical evidence in support of his claim.

Subsequently, appellant submitted hospital records for treatment he received on November 20, 2025 regarding his left shoulder. Additionally, he submitted physical therapy notes.

By decision dated May 6, 2026, OWCP's hearing representative affirmed the July 29, 2025 decision.

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,[4] 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.[5] 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.[6]

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. First, 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.[7]

To establish that an injury occurred as alleged, the injury does not have to 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.[8] The employee has not met his or her burden of proof to establish the occurrence of an injury when there are inconsistencies in the evidence that cast serious doubt upon 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 an employee's statements in determining whether a *prima facie* case has been established.[9] An employee's statements alleging that an injury occurred at a given time and in a given manner are of great probative value and will stand unless refuted by strong or persuasive evidence.[10]

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[3] *Supra* note 1.

[4] *E.K.,* Docket No. 22-1130 (issued December 30, 2022); *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).

[5] *S.H.,* Docket No. 22-0391 (issued June 29, 2022); *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).

[6] *E.H.,* Docket No. 22-0401 (issued June 29, 2022); *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).

[7] *R.R.,* Docket No. 25-0535 (issued June 23, 2025); *H.M.,* Docket No. 22-0343 (issued June 28, 2022); *T.J.,* Docket No. 19-0461 (issued August 11, 2020); *K.L.,* Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone,* 41 ECAB 354 (1989).

[8] *M.F.,* Docket No. 18-1162 (issued April 9, 2019); *Charles B. Ward,* 38 ECAB 667, 67-71 (1987).

[9] *K.H.,* Docket No. 22-0370 (issued July 21, 2022); *Betty J. Smith,* 54 ECAB 174 (2002); *see also L.D.,* Docket No. 16-0199 (issued March 8, 2016).

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

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury in the performance of duty on January 26, 2025, as alleged.

On his February 6, 2025 Form CA-1 appellant alleged that the incident occurred on January 26, 2025. In an April 11, 2025 note, he stated that the incident occurred on January 19, 2025. In May 29 and June 25, 2025 development letters, OWCP specifically requested that he clarify the date of his traumatic work incident. While appellant did not respond to OWCP's development questionnaire, he subsequently testified at the March 3, 2026 hearing before a representative of OWCP's Branch of Hearings and Review that January 19, 2025 was the date he sought medical care. He stated that he believed the incident occurred on a Sunday sometime in December 2024, probably December 18, 2024.

The Board finds that appellant has not established the occurrence of the claimed January 26, 2025 employment incident as there are such inconsistencies in the evidence of record as to cast serious doubt upon the validity of the claim. The January 26, 2025 date of injury on his Form CA-1 differed from the date on his April 11, 2025 note which indicated the incident occurred on January 19, 2025, and differed from his testimony during the hearing before. Additionally, appellant explained that the date January 19, 2025 he had provided to physicians as the date the incident occurred was actually the date on which he sought medical care. These discrepancies regarding the date of the alleged incident remain unexplained.

The inconsistencies in the evidence of record call into question whether a traumatic incident occurred on January 26, 2025. As there are inconsistencies in the evidence of record sufficient to cast serious doubt on validity of appellant's claim, the Board finds that he has not met his burden of proof to establish a traumatic incident on January 26, 2025.[11] Consequently, it is unnecessary to address the medical evidence of record.[12]

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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a traumatic injury in the performance of duty on January 26, 2025, as alleged.

[11] *See B.E.,* Docket No. 26-0221 (issued May 29, 2026); *S.R.,* Docket No. 25-0117 (issued February 3, 2025); *J.P.,* Docket No. 18-0190 (issued May 22, 2018).

[12] *B.E., id.*; *S.R., id.*; *see also M.P.,* Docket No. 15-0952 (issued July 23, 2015); *Alvin V. Gadd,* 57 ECAB 172 (2005).

ORDER

IT IS HEREBY ORDERED THAT the May 6, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 16, 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