United States Department of Labor
Employees' Compensation Appeals Board

T.P., Appellant	)	
and	)	**Docket No. 17-0886**
	)	**Issued: August 15, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Osage, MN, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 15, 2017 appellant filed a timely appeal from a February 22, 2017 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 to consider the merits of the case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury causally related to his accepted December 6, 2016 employment incident.

FACTUAL HISTORY

On December 7, 2016 appellant then a 40-year-old rural carrier, filed a traumatic injury claim (Form CA-1). He alleged that on December 6, 2016 he injured his back, neck, and right arm when he slipped and fell to the ground while exiting his car in the performance of duty,

[1] 5 U.S.C. § 8101 *et seq.*

landing on his right elbow and shoulder. Appellant sought medical treatment on December 11, 2016. He returned to light-duty work on December 20, 2016.

The employing establishment provided appellant with an authorization for examination and/or treatment (Form CA-16) dated December 8, 2016.[2] Dr. Brennen Smith, an osteopath, examined appellant on January 2, 2017 and diagnosed cervical stenosis and cervical radiculopathy.

In a letter dated January 18, 2017, OWCP noted that appellant's claim initially appeared to be a minor injury that resulted in minimal lost time from work. It had approved a limited amount of medical expenses without considering the merits of his claim. OWCP reopened appellant's claim due to requests for physical therapy. It requested that he provide additional factual and medical evidence in support of his traumatic injury claim and afforded him 30 days to respond.

On January 2, 2017 Dr. Smith examined appellant due to back pain and noted that appellant sustained an injury at work on December 6, 2016. He found right arm weakness and diagnosed cervical stenosis of the spinal canal and acute cervical radiculopathy. Dr. Smith reviewed a December 20, 2016 magnetic resonance imaging scan which demonstrated degenerative disc changes with moderate central stenosis, bilateral foraminal stenosis at C6-7, as well as mild-to-moderate central stenosis and right foraminal stenosis at C5-6.

In a note dated January 30, 2017, Dr. Smith described appellant's employment incident noting that he was injured on December 6, 2016 while getting out of his vehicle on his mail route. Appellant slipped on ice and fell on the ground, landing on his right upper extremity. He also skinned his right knee. Dr. Smith opined that appellant's neck pain and bilateral radicular symptoms were the direct result of the incident of December 6, 2016. He noted that appellant had previous left shoulder surgery for impingement and also found that appellant's preexisting left shoulder pain had been aggravated. Dr. Smith reported that because appellant had been having right upper extremity pain, he had been overworking his left shoulder.

Appellant submitted an additional description of his employment incident noting on December 6, 2016 he exited his car and fell landing on his right side on the road. He alleged that he had herniated two discs in his neck and upper back resulting in severe pain and loss of strength in his right arm. Appellant explained that to exit his car he placed his feet in the passenger side of the floor, placed his left hand on the top of the open passenger door and placed his right hand on the outside of the rear passenger door. There was ice on the rear passenger door which broke off, causing him to fall as he stood up in the car. Appellant's feet remained in the car, but his body landed in the road. He asserted that he fell approximately five feet.

Dr. Smith completed an additional form report on January 30, 2017 and diagnosed cervical radiculopathy and cervical stenosis. He provided work restrictions.

[2] Although signed by the postmaster, the form is otherwise illegible and incomplete.

By decision dated February 22, 2017, OWCP denied appellant's traumatic injury claim finding that he failed to establish causal relationship between his diagnosed conditions and his accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 the fact that the individual is an "employee of the United States" within the meaning of FECA and that he filed the claim within the applicable time limitation.[4] The employee must also establish that he sustained an injury in the performance of duty as alleged, and that his or her disability from work, if any, was causally related to the employment injury.[5]

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."[6] To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.[7] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[8]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.[9] The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.[10] Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[11]

[3] *Supra* note 1.

[4] *R.C.*, 59 ECAB 427 (2008).

[5] *Id.*, *Elaine Pendleton*, 40 ECAB 1142, 1145 (1989).

[6] 20 C.F.R. § 10.5(ee).

[7] *John J. Carlone*, 41 ECAB 354 (1989).

[8] *J.Z.*, 58 ECAB 529 (2007).

[9] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[10] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[11] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a traumatic injury causally related to his accepted December 6, 2016 employment incident.

In support of his December 6, 2016 traumatic injury claim, appellant submitted several reports from Dr. Smith. Dr. Smith provided an accurate history of injury noting that appellant fell at work landing on his right side. He diagnosed cervical radiculopathy and cervical stenosis as well as overuse of appellant's left arm. Dr. Smith opined that appellant's diagnosed conditions were caused or aggravated by his December 6, 2016 employment incident. However, he failed to provide any medical reasoning explaining how or why the fall resulted in the diagnosed cervical conditions. A mere conclusion without the necessary rationale explaining why the December 6, 2016 employment incident resulted in a diagnosed condition is insufficient to meet appellant's burden of proof.[12]

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between his claimed condition and his employment.[13] As appellant has not established that his medical condition was causally related to the accepted employment incident, he has not met his burden of proof.[14]

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 causally related to the accepted December 6, 2016 employment incident.

[12] *D.R.*, Docket No. 16-0528 (issued August 24, 2016).

[13] *R.W.*, Docket No. 15-0345 (issued September 20, 2016); *Robert A. Boyle*, 54 ECAB 381 (2003).

[14] The employing establishment provided appellant with a Form CA-16. When the employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c); *Tracy P. Spillane*, 54 ECAB 608, 610 (2003).

ORDER

IT IS HEREBY ORDERED THAT the February 22, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 15, 2017
Washington, DC

Christopher J. Godfrey, 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