

**United States Department of Labor  
Employees' Compensation Appeals Board**

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<b>L.G., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 20-0433</b>
	)	<b>Issued: August 6, 2020</b>
<b>DEPARTMENT OF THE AIR FORCE, ROBINS</b>	)	
<b>AIR FORCE BASE, Warner Robins, GA,</b>	)	
<b>Employer</b>	)	
_____	)	

*Appearances:*  
*Appellant, pro se*  
*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 December 18, 2019 appellant filed a timely appeal from a November 6, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the November 6, 2019 decision, OWCP received additional evidence. The Board notes that appellant further submitted additional evidence on appeal. However, 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 medical condition causally related to the accepted factors of his federal employment.

## FACTUAL HISTORY

On August 12, 2019 appellant, then a 34-year-old aircraft mechanic, filed an occupational disease claim (Form CA-2) for a cubital nerve injury causally related to factors of his federal employment including repetitive use of hand tools to perform his work duties. He indicated that he first became aware of his condition and first realized that it resulted from factors of his federal employment on July 25, 2019. Appellant did not stop work. In an accompanying narrative statement, he indicated that his left fourth and fifth fingers and outside palm had been numb since July 25, 2019. Appellant further noted that his left elbow throbbed at times with numbness radiating from his left fifth finger to his left elbow due to utilizing ratchets, wrenches, hi-lok tools, pneumatic hand tools, and other hand tools.

In support of his claim, appellant also submitted a position description and a Notice of Personnel Action (Form SF-50) dated November 25, 2018.

In a series of reports dated August 5, 12, and 19, 2019, Dr. Sean Moore, a Board-certified public health and general preventative medicine specialist, diagnosed medial epicondylitis, left elbow with compression around the cubital tunnel. He noted that appellant reported that he was installing hi-loks in the cockpit of an F-15 aircraft on July 25, 2019, which required turning a wrench with appellant's right hand and holding an Allen key with his left hand. Afterwards, appellant experienced tenderness in the medial part of his left elbow and tingling in the fourth and fifth fingers of his left hand. Dr. Moore provided restrictions for light work with minimal repetitive use of the left hand/arm for up to 2 hours and 40 minutes per 8-hour shift, and no vibratory tools, awkward use, or strenuous use of the left hand/arm.

In an undated report of work status, the employing establishment indicated that appellant returned to his date-of-injury position on August 5, 2019 with restrictions accommodated by his supervisor.

In a development letter dated August 21, 2019, OWCP informed appellant of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. It afforded him 30 days to submit the necessary evidence. Appellant did not submit any additional evidence.

By decision dated September 27, 2019, OWCP denied appellant's occupational disease claim, finding that the medical evidence was insufficient to establish a causal relationship between his diagnosed left elbow condition and the accepted factors of his federal employment.

On October 22, 2019 appellant requested reconsideration.

By decision dated November 6, 2019, OWCP denied modification of its September 27, 2019 decision.

## LEGAL PRECEDENT

An employee seeking benefits under FECA 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,<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

To establish that an injury sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>6</sup>

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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 incident.<sup>7</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted factors of his federal employment.

OWCP received a series of reports from Dr. Moore wherein he noted that appellant reported an injury to his left arm and hand on July 25, 2019 after installing Hi-Loks in an aircraft cockpit at work. Appellant explained that his work required repetitive use of hand tools and on July 25, 2019 he was turning a wrench with his right hand and holding an Allen key with his left hand and thereafter, began experiencing tenderness in his left elbow and tingling in his left fourth and fifth fingers. Dr. Moore diagnosed medial epicondylitis of the left elbow with compression around the cubital tunnel. While he provided a firm medical diagnosis, he did not offer a specific opinion as to whether appellant's employment caused or aggravated appellant's left elbow

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<sup>3</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>7</sup> *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value.<sup>8</sup> As such, Dr. Moore's reports are insufficient to establish appellant's burden of proof.<sup>9</sup>

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 medical condition causally related to the accepted factors of his federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the November 6, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 6, 2020  
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

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<sup>8</sup> *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>9</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *S.W.*, Docket No. 18-1489 (issued June 25, 2019).