

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

J.V., Appellant)	
)	
and)	Docket No. 24-0383
)	Issued: May 15, 2024
U.S. POSTAL SERVICE, POST OFFICE,)	
San Juan, PR, Employer)	
)	

Appearances: *Case Submitted on the Record*
Appellant, pro se
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On February 29, 2024 appellant filed a timely appeal from an October 16, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 24, 2023 employment incident.

FACTUAL HISTORY

On July 25, 2023 appellant, then a 34-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 24, 2023 he sustained a right foot injury when a box fell on top of his right foot while unloading packages, in the performance of duty. On the reverse side

¹ 5 U.S.C. § 8101 *et seq.*

of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty. Appellant stopped work on July 24, 2023.

On July 24, 2023 appellant was treated by Dr. Gisela Vega Fonseca, a general practice physician. Dr. Fonseca placed appellant off work until August 6, 2023, pending an orthopedic evaluation, and advised him to immobilize and to not bear weight on the right foot.

In a development letter dated August 9, 2023, OWCP informed appellant of the deficiencies in his claim. It advised him of the type of additional factual and medical evidence necessary to establish his claim. A Form CA-20 was also provided. OWCP afforded appellant 60 days to respond.

Appellant subsequently submitted a progress note and a work status note with illegible signatures, both dated August 10, 2023. The notes indicated a diagnosis of right foot fracture and placed her off work until September 8, 2023.

In a follow-up letter dated September 6, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the August 9, 2023 letter to submit the requested supporting 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 additional evidence was received. A duty status report (Form CA-17) dated September 7, 2023 noted an injury date of July 24, 2023. Clinical findings of right foot plantar swelling were listed. The provider's signature was illegible.

On September 11, 2023 OWCP received a work status report (Form CA-3) indicating that appellant stopped work on July 25, 2023 and returned to full duty on September 11, 2023.

By decision dated October 16, 2023, 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 accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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, 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

² *Id.*

employment injury.³ 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.⁴

To determine whether an employee sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident that allegedly occurred at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁵ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the employment injury must be based on a complete factual and medical background.⁶ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.⁷ 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.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted July 24, 2023 employment incident.

On July 24, 2023 appellant was treated by Dr. Fonseca. Dr. Fonseca placed appellant off work until August 6, 2023, pending an orthopedic evaluation, and advised to immobilize and not bear weight on the right foot. However, this note did note the July 24, 2023 incident, it also did not contain a diagnosis or medical opinion explaining the nature of the relationship between a diagnosed condition and the accepted employment incident. The Board has held that a medical report lacking a firm diagnosis and rationalized medical opinion regarding causal relationship is of no probative value.⁹ Therefore, this evidence is insufficient to establish the claim.

³ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *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).

⁵ *R.P.*, Docket No. 21-1189 (issued July 29, 2022); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *R.P., id.; F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

⁹ *J.E.*, Docket No. 21-0810 (issued April 13, 2023); *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

Appellant further submitted August 10, 2023 notes and a September 7, 2023 Form CA-17 containing illegible signatures. The Board has held that medical evidence containing an illegible signature, or which is unsigned, has no probative value, as it is not established that the author is a physician.¹⁰ This evidence is, therefore, insufficient to establish appellant's claim.

As the evidence of record does not include a medical report establishing a diagnosed medical condition in connection with the accepted July 24, 2023 employment incident, the Board finds that appellant has not met his burden of proof.

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 diagnosed medical condition in connection with the accepted July 24, 2023 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the October 16, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 15, 2024
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹⁰ *H.A.*, Docket No. 24-004 (issued January 26, 2024); *G.D.*, Docket No. 22-0555 (issued November 18, 2022); *see T.C.*, Docket No. 21-1123 (issued April 5, 2022); *Z.G.*, 19-0967 (issued October 21, 2019); *see R.M.*, 59 ECAB 690 (2008); *Merton J. Sills*, 39 ECAB 572, 575 (1988); *Bradford L. Sullivan*, 33 ECAB 1568 (1982).