United States Department of Labor
Employees' Compensation Appeals Board

R.P., Appellant	)	
and	)	**Docket No. 24-0424**
	)	**Issued: May 24, 2024**
U.S. POSTAL SERVICE, POST OFFICE, Philadelphia, PA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On March 13, 2024 appellant filed a timely appeal from a February 26, 2024 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 over the merits of this case.[2]

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical diagnosis in connection with the accepted November 15, 2023 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the February 26, 2024 decision, OWCP received additional evidence. 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.*

FACTUAL HISTORY

On December 11, 2023, appellant, then a 50-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on November 15, 2023 he sustained a ribcage injury while in the performance of duty. He explained that a 40-pound package slipped as he placed it in a hamper, and the corner of the parcel "forcefully" fell onto his ribcage. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty.

In a development letter dated December 14, 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 and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. No response was received.

In a follow-up letter dated January 8, 2024, 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 December 14, 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.

OWCP thereafter received a November 15, 2023 note wherein Dr. Duane K. Godshall, a Board-certified emergency medicine physician, related that appellant complained of left rib pain after a package slipped and fell on the left side of his chest and ribs. An x-ray report of the left ribs revealed no fracture. Physical examination showed "some" tenderness. Diagnosis was indicated as left rib pain.

By decision dated February 26, 2024, 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 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, 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.[4] 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.[5]

[3] *Id.*

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

[5] *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).

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.[6]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[7] 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.[8] 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.[9]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical diagnosis in connection with the accepted November 15, 2023 employment incident.

On November 15, 2023 appellant was diagnosed with left rib pain in an emergency department note signed by Dr. Godshall. Under FECA, the assessment of pain is not considered a compensable medical diagnosis, as pain merely refers to a symptom of an underlying condition.[10] Dr. Godshall did not otherwise provide a firm diagnosis of a medical condition.[11] As he did not provide a firm diagnosis, his opinion is insufficient to establish the claim.[12]

As the evidence of record is insufficient to establish a medical diagnosis in connection with the accepted November 15, 2023 employment incident, the Board finds that appellant has not met his burden of proof.

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[6] *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

[7] *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).

[8] *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).

[9] *Id.*

[10] *J.L.,* Docket No. 20-1662 (issued October 7, 2022); *D.B.,* Docket No. 21-0550 (issued March 7, 2022).

[11] *See M.V.*, Docket No. 18-0884 (issued December 28, 2018); *see also P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

[12] *R.L.*, Docket No. 23-0098 (issued June 20, 2023); *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *C.H.*, Docket No. 19-0409 (issued August 5, 2019).

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 diagnosis in connection with the accepted November 15, 2023 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 24, 2024
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board