

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

_____)
D.S., Appellant)

and)

DEPARTMENT OF THE AIR FORCE, JOINT)
BASE SAN ANTONIO-RANDOLPH AIR)
FORCE BASE, TX, Employer)
_____)

Docket No. 24-0888
Issued: November 6, 2024

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
JANICE B. ASKIN, Judge

JURISDICTION

On September 3, 2024 appellant filed a timely appeal from a May 8, 2024 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 January 24, 2024 employment incident.

FACTUAL HISTORY

On January 30, 2024 appellant, then a 38-year-old maritime range support specialist, filed a traumatic injury claim (Form CA-1) alleging that on January 24, 2024 he sustained blunt force

¹ 5 U.S.C. § 8101 *et seq.*

trauma to the left side of his body when he slipped and fell five feet from the back of a boat, landing on concrete, while in the performance of duty. He stopped work on January 25, 2024 and returned to full-time regular-duty work on January 29, 2024.

In a development letter dated February 28, 2024, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and afforded him 60 days to submit the necessary evidence.

Appellant subsequently submitted January 25, 2024 notes, wherein Dr. Tylan A. Muncy, a physician Board-certified in emergency medicine, related appellant's history of falling from a boat on January 24, 2024. He diagnosed acute pain of the left hip, wrist, and shoulder after a fall from a height of greater than three feet. Dr. Muncy read x-ray studies of even date of the left shoulder, elbow, wrist, ribs, and hip as revealing no evidence of acute fracture or subluxation. He provided differential diagnoses of concussion, contusion, sprain, and strain.

In a follow-up letter dated April 16, 2024, OWCP advised appellant that it had conducted an interim review and determined that the evidence remained insufficient to establish his claim as pain was not a valid diagnosis under FECA. It noted that he had 60 days from its February 28, 2024 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.

Appellant resubmitted his January 25, 2024 treatment notes previously of record.

By decision dated May 8, 2024, OWCP found that the alleged incident occurred as described; however, it denied the claim finding that the medical evidence of record was insufficient to establish that a medical condition was diagnosed in connection with the accepted employment incident. OWCP 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 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, 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.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

² *Id.*

³ *See T.R.*, Docket No. 24-0666 (issued August 29, 2024); *T.M.*, Docket No. 19-0050 (issued June 18, 2020); *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 *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).

Whether an injury occurs in the performance of duty is a preliminary issue addressed before the merits of the claim are adjudicated.⁵

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.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 incident.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted January 24, 2024 employment incident.

In support of his claim, appellant submitted January 25, 2024 treatment records including a report from Dr. Muncy diagnosing acute pain of the left hip, wrist, and shoulder. The Board has held that pain is a symptom, not a diagnosis of a medical condition.¹⁰ Medical reports lacking a firm diagnosis are of no probative value.¹¹ Therefore, this evidence is insufficient to establish the claim.¹²

⁵ *P.L.*, Docket No. 16-0631 (issued August 9, 2016); *see also M.D.*, Docket No. 17-0086 (issued August 3, 2017).

⁶ *See A.R.*, Docket No. 24-0242 (issued June 17, 2024); *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).

⁷ *S.B.*, Docket No. 24-0710 (issued August 26, 2024); *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 *T.S.*, Docket No. 24-0605 (issued August 23, 2024); *R.D.*, Docket No. 24-002 (issued January 24, 2024); *K.S.*, Docket No. 19-1433 (issued April 26, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

¹¹ *See A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

¹² *See J.P.*, Docket No. 18-0349 (issued December 30, 2019); *D.D.*, 57 ECAB 734 (2006).

OWCP also received a January 25, 2024 x-ray. The Board has held that diagnostic studies, standing alone, lack probative value.¹³ Consequently, this evidence is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted January 24, 2024 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 January 24, 2024 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 8, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 6, 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

¹³ *K.A.*, Docket No. 23-613 (issued April 22, 2024); *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).