

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On October 17, 2022 appellant, then a 58-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that, at 6:45 p.m. on October 4, 2022, she sustained right knee, right-sided rib, and lumbar spine sprains due to a fall in a parking lot at her hotel when on travel status in Tampa, Florida. She did not immediately stop work. On the reverse side of the claim form, appellant's supervisor indicated that appellant was not injured in the performance of duty.

In an incident report dated October 4, 2022, appellant reported that between 5:40 p.m. and 6:00 p.m. she tripped while exiting the first floor of her hotel. She was treated at a local emergency room.

OWCP subsequently received medical evidence in support of appellant's claim.

In a December 15, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical evidence needed and provided a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional factual information regarding appellant's claim, including comments from a knowledgeable supervisor regarding the accuracy of all statements submitted in support of appellant's claim. It also requested information regarding whether appellant was on official duty at the time of the injury and a copy of her position description. OWCP afforded both parties 30 days to respond.

OWCP subsequently received additional medical evidence.

In a January 2, 2023 response to OWCP's December 15, 2022 development letter, appellant advised that she immediately reported the incident to the hotel staff and her taskforce supervisor. She later sought treatment at a hospital emergency room. She indicated that she was contacted by hotel security and was provided an incident report. Appellant noted that, on October 6, 2022, she flew home and sought treatment from her primary care physician, who recommended that she work from home for three months.

In notes dated January 16 and 23, 2023, Dr. Trottier advised that appellant was treated on October 6 and November 8, 2022 and January 10, 2023 for a lumbar spine, right knee, and right rib injuries sustained after a fall on October 4, 2022. He noted that she underwent physical therapy.

By decision dated January 24, 2023, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that the injury and/or events occurred as she described. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

On February 28, 2023, Dr. Trottier released appellant to return to work on April 10, 2023.

On April 10, 2023, appellant requested reconsideration of the January 24, 2023 decision.

In an April 10, 2023 response to OWCP's development questionnaire, appellant reiterated that she was in travel status for a 60-day in-person deployment, having traveled from her duty station in Grapevine, Texas to Tampa, Florida, where she was injured. She asserted that she was

at her assigned hotel and was walking to her vehicle to retrieve luggage at the time of injury. Appellant clarified that she stayed at the hotel upon the request of the employing establishment and was required to perform her work duties in Tampa, Florida. She reported taking two steps outside the hotel entrance, turning left, and falling on her stomach, right side, knees, and back.

By decision dated July 11, 2023, OWCP modified the January 24, 2023 decision to find that appellant had established that the October 4, 2022 incident occurred as alleged and that appellant sustained diagnosed medical conditions; however, the claim remained denied as appellant was not in the performance of duty when injured.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including 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.² 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.³

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. 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.⁴ The second component is whether the employment incident caused a personal injury.⁵ Rationalized medical opinion evidence is required to establish causal relationship.⁶

The general rule regarding coverage of employees on travel duty status or on temporary duty assignments is that an employee whose work entails travel away from the employer's premises is generally considered to be within the course of his or her employment continuously during the trip, except when there is a distinct departure on a personal errand. Thus, injuries flowing from sleeping in hotels or eating in restaurants away from home are usually compensable.⁷

The Board has similarly recognized that FECA covers an employee 24 hours a day when the employee is on travel duty status and engaged in activities essential or incidental to such

² *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

³ *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).

⁴ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

⁷ *S.T.*, Docket No. 16-1710 (issued September 27, 2017); *B.B.*, Docket No. 14-2000 (issued July 9, 2015).

duties.⁸ When the employee, however, deviates from the normal incidents of her trip and engages in activities, personal or otherwise, which are not reasonably incidental to the duties of the temporary assignment contemplated by the employer, the employee ceases to be under the protection of FECA and any injury occurring during these deviations is not compensable.⁹

ANALYSIS

The Board finds that appellant has established that she was injured in the performance of duty on October 4, 2022, as alleged.

Appellant was in travel status, having traveled for a 60-day in-person field deployment in Tampa, Florida. She injured herself at her assigned hotel while walking to her vehicle to retrieve luggage. Appellant reported that she fell on her stomach, right side, knees, and back.

As indicated above, an employee in travel status remains in the performance of duty at all times when engaged in activity that is reasonably incidental to the duties of the temporary assignment. The focus of the analysis is on the nature of the activity in which the employee was engaged, and in this case the nature of the activity was walking to her vehicle to retrieve her luggage. This activity is incidental to the employee's travel status.¹⁰

For the above reasons, the Board finds that appellant was in the performance of duty at the time of the accident on October 4, 2022. The case shall be remanded to OWCP to properly consider the evidence of record to determine if appellant sustained an injury in the performance of duty. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has established that she was injured in the performance of duty on October 4, 2022, as alleged.

⁸ See *K.R.*, Docket No. 21-0308 (issued May 16, 2022); *S.B.*, Docket No. 10-842 (issued December 9, 2010). See also *A.W.*, 59 ECAB 593 (2008).

⁹ See *T.C.*, Docket No. 16-1070 (issued January 24, 2017); *Ann P. Drennan*, 47 ECAB 750 (1996).

¹⁰ A. Larson, *The Law of Workers' Compensation* § 25.01 (2000); *J.C.*, Docket No. 21-0941 (issued September 20, 2022); see also *R.M.*, Docket No. 07-1066 (issued February 6, 2009); *Diane Bensmiller*, 48 ECAB 675 (1997); *Rosa M. Thomas-Hunter*, 42 ECAB 500 (1991); *Edythe Erdman*, 36 ECAB 597 (1985); *Karen A. Patton*, 33 ECAB 487 (1982).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 11, 2023 is reversed and the case is remanded for further action consistent with this decision of the Board.

Issued: January 14, 2025
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