

FACTUAL HISTORY

On August 10, 2022 appellant, then a 42-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on August 8, 2022 she injured her right shoulder when she reached back to close the door of her truck while in the performance of duty. She stopped work on August 8, 2022.

In support of her claim, appellant submitted an August 9, 2022 note from Dr. Jessica Richmond, a Board-certified internist, holding her off from work from August 9 to 23, 2022, pending evaluation by a specialist.

In an August 15, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a factual questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence. No response was received.

By decision dated September 16, 2022, OWCP accepted that the August 8, 2022 employment incident occurred, as alleged. However, it denied appellant's traumatic injury claim, finding that she had not submitted medical evidence containing a medical diagnosis from a qualified physician in connection with the accepted August 8, 2022 employment incident. Consequently, OWCP found that the requirements had not been met to establish an injury as defined by FECA.

Thereafter, OWCP received additional evidence. In a September 16, 2022 note, Dr. Matthew Kleiner, Board-certified in orthopedic surgery and orthopedic sports medicine, related that he treated appellant for a right shoulder injury sustained in August when she pulled the door of a mail truck at work. He diagnosed right shoulder rotator cuff syndrome and shoulder weakness and opined that the conditions were causally related to the employment incident.

On October 3, 2022 appellant requested reconsideration of the September 16, 2022 decision and submitted additional evidence, including a September 17, 2022 x-ray report of her right shoulder noting an impression of no acute fracture or dislocation of the right shoulder.

In a September 21, 2022 attending physician's report (Form CA-20), Dr. Kleiner noted an August 8, 2022 date of injury, diagnosed right rotator cuff syndrome and right shoulder weakness, and noted a period of total disability of September 16 to November 1, 2022. He checked a box marked "Yes" to indicate his belief that the conditions were caused or aggravated by an employment activity. In a duty status report (Form CA-17) of even date, Dr. Kleiner related that appellant sustained an injury on August 8, 2022 by closing a rear truck door, diagnosed right shoulder weakness, and held her off work.

By decision dated October 4, 2022, OWCP denied modification of its September 16, 2022 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.⁶

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. There are two components involved in establishing fact of injury. The first component is that 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. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁷

ANALYSIS

The Board finds that appellant has established a diagnosed right rotator cuff syndrome in connection with the accepted August 8, 2022 employment incident.

In a September 16, 2022 note, Dr. Kleiner related that he treated appellant for a right shoulder injury sustained in August when she pulled the door of a mail truck at work. He diagnosed right shoulder rotator cuff syndrome and shoulder weakness and indicated that the conditions were causally related to the accepted employment incident. Likewise, in a September 21, 2022 Form CA-20, Dr. Kleiner noted an August 8, 2022 date of injury, reiterated his diagnosis of right rotator cuff syndrome and right shoulder weakness, and checked a box marked “Yes” to indicate his belief that the conditions were caused or aggravated by an employment activity. Thus, the Board finds that the evidence of record establishes a diagnosis of right rotator cuff syndrome in connection with the accepted August 8, 2022 employment incident.

³ *Supra* note 1.

⁴ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

Consequently, the case must be remanded for consideration of the medical evidence with regard to the issue of causal relationship.⁸ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that appellant has met her burden of proof to establish a diagnosed right rotator cuff syndrome in connection with the accepted August 8, 2022 employment incident. The Board further finds, however, that the case is not in posture for decision with regard to whether the diagnosed medical condition is causally related to the accepted August 8, 2022 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the September 16 and October 4, 2022 decisions of the Office of Workers' Compensation Programs are reversed and the case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: May 23, 2023
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

⁸ See *F.D.*, Docket No. 21-1045 (issued December 22, 2021).