United States Department of Labor
Employees' Compensation Appeals Board

F.W., Appellant	)	
and	)	**Docket No. 17-0436**
	)	**Issued: July 5, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Sandston, VA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On December 19, 2016 appellant filed a timely appeal from an October 4, 2016 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 to consider the merits of this case.[2]

ISSUE

The issue is whether appellant met his burden of proof to establish a right finger injury causally related to an August 10, 2016 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] Appellant filed a timely request for oral argument. By order dated May 23, 2017, the Board denied his request as his arguments could be adequately addressed in a decision based on a review of the case record. *Order Denying Request for Oral Argument*, Docket No. 17-0436 (issued May 23, 2007).

FACTUAL HISTORY

On August 12, 2016 appellant, then a 60-year-old custodial groundskeeper, filed a traumatic injury claim (Form CA-1) alleging that, on August 10, 2016, as he opened a door to a room, he sustained a cut to his finger from a metal plate. He stopped work on that same day.

On August 10, 2016 appellant was treated in the emergency room by Dr. Michael W. Singleton, a Board-certified emergency room physician, who diagnosed laceration of right little finger, provided sutures, and administered a tetanus booster. Dr. Singleton noted that appellant presented with a 1.5 centimeter V-shaped laceration to his right fifth finger, that appellant could not stop the laceration from bleeding, and that the laceration occurred that morning when he had hit his hand on the edge of a metal plate on a door at work. He recommended that appellant follow up with his primary care provider within two days for wound check and 10 days for suture removal.

Appellant also submitted a duty status report (Form CA-17) from a physician assistant, which had been reviewed by Dr. Singleton, dated August 10, 2016, noting the clinical finding of a 1.5 centimeter laceration to the right finger and a diagnosis of fifth finger laceration. The duty status report notes that appellant's supervisor confirmed that the injury occurred while appellant was entering a door and cut his finger. Appellant was informed that he could return to work full time.

By letter dated August 30, 2016, OWCP advised appellant that his claim was originally received as a minor, uncontroverted case which resulted in minimal or no time loss from work. As the employing establishment did not controvert continuation of pay or challenge the case, payment of a limited amount of medical expenses had been administratively approved without a formal adjudication of the merits. OWCP advised that, because appellant had not returned to full-time work, it would proceed to formally adjudicate the claim. It requested that he submit additional information, including a comprehensive medical report from his treating physician which should contain a reasoned explanation as to how the work incident contributed to his claimed injuries. OWCP advised that medical evidence must be submitted from a qualified physician and instructed that physician assistants are not considered physicians under FECA.

Thereafter, appellant submitted medical records from Dr. Richard L. Hunley, a Board-certified family practitioner, who provided treatment on August 16, 2016 for a cut on the right hand, an injury which he noted had occurred on the job. Dr. Hunley diagnosed laceration and provided an excuse note for work in which he reported that appellant had been seen in his office, but was released to work on August 20, 2016. On August 19, 2016 he had treated appellant in follow up to remove stitches from his finger. On that same date Dr. Hunley noted that appellant was released to return to work on August 22, 2016. On August 23, 2016 he removed the last suture from appellant's finger.

In an October 4, 2016 decision, OWCP denied the claim finding that appellant had failed to submit medical evidence establishing a diagnosed medical condition in connection with the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. 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 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. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.[4]

An employee has the burden of proof to establish the occurrence of an injury at the time, place, and in the manner alleged, by a preponderance of the reliable, probative, and substantial evidence. An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, as alleged, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action.[5] An employee has not met his or her burden of proof to establish the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient doubt on an employee's statement in determining whether a *prima facie* case has been established. An employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.[6]

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[7]

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[3] *Gary J. Watling*, 52 ECAB 357 (2001).

[4] *T.H.*, 59 ECAB 388 (2008).

[5] *Gene A. McCracken*, Docket No. 93-2227 (issued March 9, 1995); *Joseph H. Surgener*, 42 ECAB 541, 547 (1991).

[6] *D.B.*, 58 ECAB 529 (2007); *Gregory J. Reser*, 57 ECAB 277 (2005).

[7] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS

It is undisputed that on August 10, 2016 appellant opened a door while at work and lacerated his finger on a metal plate. The Board finds that he has submitted sufficient medical evidence to establish that his accepted employment incident caused the diagnosed right finger laceration.

Appellant was treated in the emergency room that same day by Dr. Singleton at 8:38 a.m. on August 10, 2016. Dr. Singleton diagnosed laceration of right little finger, provided sutures, and administered a tetanus booster. He recommended that appellant follow up with his primary care provider for wound check and suture removal. Dr. Singleton noted that appellant had reported to the emergency room with a lacerated finger after appellant could not stop the bleeding. He noted as a history of injury that at 7:25 a.m. appellant sustained a right fifth finger laceration when he hit his hand on the edge of a metal plate on a door at work.

Appellant also submitted a duty status report (Form CA-17) from a physician assistant dated August 10, 2016, who diagnosed fifth finger laceration. The duty status report was reviewed by Dr. Singleton and documented a consistent mechanism of injury as confirmed by appellant's supervisor and noted the recommendations of treatment.

Finally, appellant submitted an August 16, 2016 excuse slip from Dr. Hunley who treated him for a cut on the right hand which the physician noted had occurred on the job. Dr. Hunley diagnosed a laceration and provided a work excuse note. On August 19, 2016 he saw appellant to remove stitches from his finger. On August 23, 2016 Dr. Hunley removed the last suture from his finger.

OWCP accepted that the August 10, 2016 employment incident occurred as alleged, but denied the claim because appellant had presented insufficient evidence to establish a diagnosed condition causally related to the accepted incident. The Board finds, however, that he has met his burden of proof to establish a diagnosed medical condition causally related to the accepted August 10, 2016 incident. Appellant has submitted a duty status report and a medical note from Dr. Singleton as well as treatment notes from Dr. Hunley. These medical notes are found to be sufficient to establish causal relationship. The opinions of Dr. Singleton and Dr. Hunley are contemporaneous with the incident, based on a complete factual and medical background, are provided with reasonable medical certainty, and are supported by sufficient medical rationale to explain the nature of the relationship between the 1.5 centimeter laceration on his right fifth finger and the act of hitting his hand on the metal plate on the door, cutting the skin on his finger, and experiencing bleeding which required sutures.

CONCLUSION

The Board finds that appellant met his burden of proof to establish that his right finger injury was causally related to the August 10, 2016 employment incident. The case shall be remanded to determine whether appellant has sustained any disability resulting from his work injury.

ORDER

IT IS HEREBY ORDERED THAT the October 4, 2016 decision of the Office of Workers' Compensation Programs is reversed.

Issued: July 5, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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