United States Department of Labor
Employees' Compensation Appeals Board

K.G., Appellant	)	
	)	
and	)	**Docket No. 17-0943**
	)	**Issued: July 21, 2017**
DEPARTMENT OF THE NAVY, PORTSMOUTH NAVAL SHIPYARD, Kittery, ME, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On March 30, 2017 appellant filed a timely appeal from a December 23, 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 over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a traumatic injury to the left fifth finger causally related to an accepted July 23, 2016 employment incident.

FACTUAL HISTORY

On August 2, 2016 appellant, then a 49-year-old firefighter, filed a traumatic injury claim (Form CA-1) alleging that, while turning the steering wheel of a fire engine at 10:30 a.m. on

[1] 5 U.S.C. § 8101 *et seq.*

July 23, 2016, he caught his left fifth finger on a pillar-mounted handle, bending the digit in an unnatural position as he turned the wheel, causing a sprain and dislocation.

Appellant provided July 31, 2016 records from a hospital emergency room walk-in center. A physician assistant noted that appellant injured his left fifth finger "about nine days ago," sustaining "a crush injury" at work. Appellant provided intake forms reiterating that the injury occurred at work on July 23, 2016, when his "left pinky got caught on a handle, mounted on a pillar" as he turned the steering wheel. The physician assistant diagnosed a sprain of the proximal interphalangeal joint of the left fifth finger. X-rays of the left fifth finger reviewed by Dr. Richard N. Gray, a Board-certified radiologist, showed normal alignment without fracture and unremarkable soft tissues. The physician assistant opined that the x-rays showed soft tissue swelling in the middle phalanx of the left fifth finger. She "buddy taped" appellant's left fourth and fifth fingers and noted work restrictions.

In an August 11, 2016 letter, OWCP notified appellant of the additional evidence needed to establish his claim, including a physician's report explaining how the July 23, 2016 incident could have caused the claimed injury. It cautioned that the July 31, 2016 reports were not considered medical evidence as physician assistants were not considered physicians under FECA. OWCP afforded appellant 30 days to submit additional evidence. No additional evidence was received.

By decision dated September 16, 2016, OWCP accepted that the July 23, 2016 employment incident occurred at the time, place, and in the manner alleged, but denied the claim because there was no medical evidence of record signed by a physician diagnosing an injury causally related to the accepted July 23, 2016 incident.

On October 4, 2016 appellant requested reconsideration. He submitted copies of the July 31, 2016 emergency room reports previously of record.

By decision dated September 4, 2016, OWCP denied reconsideration, finding that the copies of previously submitted evidence were repetitive and, therefore, insufficient to warrant a review of the merits of the claim.

On November 21, 2016 appellant again requested reconsideration. He contended that on July 23, 2016, his left fifth finger became "jammed against a handle mounted" on a pillar. Appellant alleged that a captain in the adjacent seat witnessed the incident and heard the "thud," and that two other employees sustained similar injuries on the same handle, which was later removed from the pillar. He asserted that he delayed seeking treatment until July 31, 2016 as he had prior scheduled vacation plans beginning July 24, 2016.

Appellant submitted a copy of the July 31, 2016 emergency room reports, signed on November 16, 2016 by Dr. Robert Hulefeld, Board-certified in emergency medicine and director of the walk-in unit where appellant was treated. Dr. Hulefeld noted his agreement with the assessment, diagnosis, and management provided by the physician assistant.

By decision dated December 23, 2016, OWCP denied the claim finding that the medical evidence of record was insufficient to establish causal relationship. It noted that the physician assistant's July 31, 2016 reports, as affirmed by Dr. Hulefeld, described a crush injury, differing

significantly from appellant's account of the finger being bent in an unnatural position. OWCP therefore, found that Dr. Hulefeld's opinion was not based on a complete and accurate history of the accepted incident, and was thus of insufficient probative value to establish a causal relationship between that incident and the claimed injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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 specific condition and/or disability for which compensation is claimed are causally related to the employment injury.[3]

To determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered conjunctively. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident that is alleged to have occurred.[4] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[5]

The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.[6]

ANALYSIS

Appellant claimed that he injured his left fifth finger at work on July 23, 2016 while driving a fire engine. In his August 2, 2016 claim (Form CA-1), he described catching his left fifth finger on a pillar-mounted handle and bending it in an unnatural position. Appellant clarified on November 17, 2016 that he jammed his finger against the handle, causing it to hyperextend as he turned the steering wheel. OWCP accepted this version of events as factual.

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[2] *Supra* note 1.

[3] *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

[4] *Gary J. Watling*, 52 ECAB 278 (2001).

[5] *Deborah L. Beatty*, 54 ECAB 340 (2003).

[6] *Solomon Polen*, 51 ECAB 341 (2000).

In support of his claim, appellant provided reports from a hospital walk-in center dated July 31, 2016, prepared by a physician assistant and signed on November 16, 2016 by Dr. Hulefeld, Board-certified in emergency medicine and director of the walk-in unit. These reports described a "crush injury" to the left fifth finger, but diagnosed a sprain of the proximal interphalangeal joint of the left fifth finger. The inconsistent description of the incident, reduce the probative quality of Dr. Hulefeld's opinion.[7] Moreover, appellant did not allege a crush injury.

Additionally, Dr. Hulefeld did not set forth his medical reasoning supporting how the accepted mechanism of catching and bending appellant's fifth finger against the handle would have caused the diagnosed sprain. This lack of medical rationale supporting Dr. Hulefeld's conclusions further reduces the probative value of his opinion.[8]

The Board notes that OWCP notified appellant by August 11, 2016 letter of the need to provide rationalized medical evidence from a physician supporting causal relationship. As appellant failed to submit such evidence, he failed to meet his burden of proof.

Appellant may submit additional evidence or argument with a written request for reconsideration to OWCP within one year of the date 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 failed to meet his burden of proof to establish a traumatic injury to the left fifth finger causally related to an accepted July 23, 2016 employment incident.

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[7] *See Beverly R. Jones*, 55 ECAB 465 (2004).

[8] *See Frank D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 23, 2016 is affirmed.

Issued: July 21, 2017
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board