U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RAMON BOLIN and DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS, Ft. Defiance, AZ

*Docket No. 98-323; Submitted on the Record;*
*Issued August 11, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty on October 30, 1996, as alleged.

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty on October 30, 1996, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing 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 the Act and that the claim was filed within the applicable time limitations of the Act.[2] An individual seeking disability compensation must also establish that an injury was sustained at the time, place and in the manner alleged,[3] that the injury was sustained while in the performance of duty,[4] and that the disabling condition for which compensation is claimed was caused or aggravated by the individual's employment.[5] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[6]

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[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *Robert A. Gregory*, 40 ECAB 478 (1989).

[4] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *Steven R. Piper*, 39 ECAB 312 (1987).

[6] *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office of Workers' Compensation Programs begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[7] In the instant case, there is no dispute that the claimed incident occurred at the time, place and in the manner alleged. However, by decision dated October 20, 1997, the Office found that the medical evidence was insufficient to support that appellant sustained an injury as a result of the incident.

The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[8]

In this case, the earliest medical evidence of appellant's alleged traumatic injury is contained in the medical report of Dr. Brian Altman, a Board-certified orthopedic surgeon, dated April 7, 1997. Appellant contends his injury occurred on October 10, 1996 but did not file his claim until July 28, 1997. Dr. Altman reported the following:

> "Story: The patient is a 51-year-old, male physical education teacher at Wide Ruins Boarding School run by the Bureau of Indian Affairs (BIA). The patient states the school is on the Navajo reservation.
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> "The patient reports that while working on the school grounds he was in the process of saving a choking student who was apparently choking on a piece of Halloween candy. After two or three unsuccessful Heimlich maneuvers, he ran towards the administration building. Upon opening the door, the patient entered and saw a young child standing in front of him and dodged the young child, twisting his left knee. The patient noted immediate pain. He did not note swelling and did not note a pop in his knee. The patient is quick to admit the fact that the adrenaline of the situation prohibits accurate discussion of his feelings at the time of injiury.
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> "The patient does recall that he went home and a few hours later began experiencing left knee pain. He took a couple of days off, got himself some crutches, hopped around for a few days and got a brace. He went back to work about one week later.
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> "The patient states the knee seemed to perform reasonably well until he was hurt again while performing the duties of a volunteer fireman and went to a house fire. He stumbled over an object. Again, the adrenaline of the situation prohibited accurate description of

[7] *Elaine Pendleton, supra* note 2.

[8] *Kathryn Haggerty*, 45 ECAB 383 (1994); *see* 20 C.F.R. § 10.110(a).

the sensation at the time but the following day he had medial joint line pain in the knee once again. The patient states he has suffered with the discomfort and pain because he is coaching basketball and has not had time to seek medical attention untill the present time. This office visit is the first time he has actively sought medical attention for the left knee. The patient states the pain is worsening at the medial joint line. He is having sensations of buckling. He does not describe catching, locking, or grinding. He does state that if he is seated for a long period of time, he complains of severe pain and stiffness and limping, which will persist until he is able to ambulate and loosen it up once again. He also states he has discomfort and pain the longer that he is on his feet."

Dr. Altman reported the following x-ray results, diagnosis and plan of treatment:

"X-RAYS:

X-rays demonstrate the expected irregularity and degeneration of the joint for a man of his age. Joint space is reasonably well maintained. There is some slight irregularity of the medial joint line.

"DIAGNOSIS:

1. The patient would seem to have classic signs and symptoms of a medial joint line impingement syndrome, which is characterized by some degeneration of the articular cartilage, possibly even a post-traumatic flap tear, as well as a post-traumatic degenerative tear of the medial meniscus.

"PLAN:

1. We will attempt to try him on some Cataflam, which he will take one pill two or three times a day with food. We had a thorough discussion of GI side-effects.

2. He will be seen again in two weeks for follow up.

3. Arthroscopy has been discussed."

In a follow-up evaluation visit on August 29, 1997, Dr. Altman reported that appellant underwent a left knee arthroscopy on April 13, 1997. He went on to say:

"The patient called me last week from Marble City, Oklahoma stating that it was extremely humid and his left knee was painful. The patient called on a Thursday and he states by Saturday the knee was feeling better. The patient reports now that the knee is fine.

"Review of the operative note reveals that the patient had [G]rade IV chondromalacia of the medial femoral condyle. He had bare bone of the patella and underwent a subtotal partial medial meniscectomy with a chondral abrasion of the medial femoral condyle and of the patella."

Dr. Altman reported his August 29, 1997 x-ray, diagnosis and treatment plan as follows:

"X-RAYS:

Standing AP and lateral x-rays were taken today. The x-rays demonstrate cysts of the patellofemoral joint, specifically the patella, with bone-on-bone contact at the inferior patella. There is bone-on-bone on the lateral x-ray at the medial joint line at the medial femoral condyle. The standing AP x-ray demonstrates a pronounced narrowing of the medial joint line down to about a 1+ air space. The lateral air space is maintained.

"DIAGNOSIS:

1. Based on the arthroscopic findings, the patient has advanced degenerative disease of the patellofemoral joint and the medial joint line and the patient is presently 51 years old. He is active and has intermittent pain, which he states was quite severe, to the point that he needed crutches and yet, once the weather changed and the humidity changed, the pain went away and now he feels fine.

"PLAN:

1. I do not think he is a candidate for consideration of cartilaginous plug procedure, a meniscus allograft, or an arthoplasty at the present time, but all three were discussed in detail with a rather limited account of the risks and benefits of each.

2. The patient willl probably return on a p.r.n. basis given the fact that he lives in east Oklahoma, 60 miles south of Joplin."

From a careful review of the medical evidence of record, it is clear that Dr. Altman did not address whether the initial traumatic employment incident on October 30, 1996 caused the diagnosed condition of medial joint line impingement syndrome, advanced degenerative disease of the patellafemoral joint line. Nor did Dr. Altman address whether the above injuries were caused by performing the duties of a volunteer fireman when appellant stumbled over an object.

The Board notes that the record does not contain a medical opinion stating that the employment-related incident of October 30, 1997 was the cause of appellant's diagnosed condition, surgical procedures and disability for work.

In summary, appellant failed to submit a physician's rationalized medical opinion causally relating his diagnosed condition to the accepted employment-related October 30, 1996 incident.[9]

The decision of the Office of Workers' Compensation Programs dated October 20, 1997 is affirmed.

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[9] On the CA-16 form Dr. Altman check "yes" to the question on caulal relationship. *Ruth S. Johnson*, 46 ECAB 237 (1994) (The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.) Appellant's burden included the neccessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning.

Dated, Washington, D.C.
August 11, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member