

On February 20, 2007 appellant, then a 51-year-old mail handler, filed a traumatic injury claim alleging that on February 14, 2007 he experienced pain across his right knee and ankle while coming out of doorway number 104. He noted that he thought nothing of it until it started to swell. The employing establishment controverted the claim.

Appellant submitted discharge instructions and a work release from Good Samaritan Hospital signed by Dr. Lee Herfel, a physician Board-certified in emergency medicine, who indicated that appellant had been treated on February 20, 2007 and could return to light-duty work in two days. X-rays taken on that day were interpreted as showing no acute bony abnormality with ossification of the distal interosseous membrane consistent with an old healed trauma.

In a February 27, 2007 report, Dr. Sanjiv Lakhia, an osteopath, noted appellant's work history and described his account of the work incident. He listed impressions of right knee injury with edema and probable early degenerative changes. Dr. Lakhia stated that he would obtain a magnetic resonance imaging (MRI) scan of the knee for further clarification. He completed a duty status report noting that appellant could return to light-duty work and had been injured while driving a power lift. An MRI scan of the right knee taken on March 2, 2007 was interpreted as showing an old medial collateral ligament injury, probable posterior horn medial meniscal tear and focal osteochondral lesion in the lateral trochlea. On March 6, 2007 Dr. Lakhia discussed the MRI scan results and noted that appellant complained of right ankle pain that developed over the prior few days. He listed impressions of right knee pain with progressive moderate lateral compartment degenerative changes, right knee medial meniscal tear, old right knee medial collateral ligament injury and right ankle pain likely secondary to gait deviations made to accommodate the knee injury.

By letter dated July 13, 2007, the Office asked appellant to submit further information. By letter received on August 14, 2007, appellant provided a description as to how the injury occurred. However, no medical evidence was submitted.

By decision dated August 15, 2007, the Office denied appellant's claim finding that the medical evidence did not demonstrate that the claimed condition was related to the accepted work incident.

By letter dated August 28, 2007, appellant, through his attorney, requested a telephone hearing, which took place on November 14, 2007. Appellant further described the incident as riding a power lift through doorway 104 in a crouched position when he hit a dock plate coming out of a truck and felt pain in his knee. He noted that he had no other injuries to his knee after this incident. The hearing representative held the record open for 30 days to provide the opportunity to submit further medical evidence. However, no evidence was received in a timely manner.

By decision dated January 17, 2008, the hearing representative affirmed the August 15, 2007 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that an individual is an employee of the United States within the meaning of the Act, that the claim was

¹ 5 U.S.C. § 8122(a).

timely filed within the applicable time limitation period of the Act, 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.²

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether the fact of injury has been established. There are two components involved in establishing the 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.³ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁴ An employee may establish that the employment incident occurred as alleged, but fail to show that his disability was related to the employment incident.

In order to satisfy the burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.⁵ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁶ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.⁷

ANALYSIS

The Office found that the February 14, 2007 incident occurred, as alleged. The issue is whether appellant sustained an injury caused by this employment incident. This must be established by probative medical evidence.⁸

Appellant submitted medical records signed by Dr. Herfel, medical reports by Dr. Lakhia and the results of a March 2, 2007 MRI scan. None of these medical reports, however, establish that appellant sustained an injury causally related to the February 14, 2007 incident. Dr. Herfel merely noted that appellant was treated at the emergency room on February 20, 2007 and could return to light-duty work in two days. He did not discuss the February 14, 2007 incident. Similarly, the MRI scan does not address appellant's accepted employment incident. Dr. Lakhia

² *Id.*

³ *John J. Carlone*, 41 ECAB 345 (1989).

⁴ *Shirley A. Temple*, 48 ECAB 404 (1997).

⁵ *Gary L. Fowler*, 45 ECAB 365 (1989).

⁶ *Nicolette R. Kelstrom*, 54 ECAB 570 (2003).

⁷ *Phillip L. Barnes*, 55 ECAB 426 (2004); *Jamel A. White*, 54 ECAB 224 (2002).

⁸ *Gary L. Fowler*, *supra* note 5.

mentioned the injury, noting that appellant was injured while driving a power lift. However, Dr. Lakhia did not provide a rationalized medical opinion addressing how appellant's injuries were caused or contributed to by the accepted work incident. In order to be considered rationalized, the opinion of a physician must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the employment incident.⁹ As Dr. Lakhia provided no explanation of the relationship between appellant's work incident and his medical condition, his opinion is also insufficient to establish causal relationship.

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.¹⁰ There is insufficient medical evidence to establish that appellant sustained an injury on February 14, 2007. Accordingly, the Board finds that appellant failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on February 14, 2007, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' hearing representative dated January 17, 2008 and the decision of the Office dated August 15, 2007 are affirmed.

Issued: August 14, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁹ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *John D. Jackson*, 55 ECAB 465 (2004); *William Nimitz*, 30 ECAB 57 (1979).