



workstation and had inquired about it. She reported that appellant stated that she had hit her leg on the stool and that she saw appellant rubbing her leg and heard her say that the leg really hurt.

By letters dated February 15, 2008, the employing establishment stated that it was contesting the claim. In addition to its more general objections, the employing establishment specified the absence of medical reports to place appellant off work and the delay by appellant in reporting the incident. There is some evidence of medical contact and treatment in the file. There are several poorly reproduced copies of prescription pad sheets and one shows appellant was scheduled for an appointment on February 11, 2008. There are no records of earlier medical attention.

On February 20, 2008 the Office received a copy of a medical form dated February 15, 2008 signed by a Dr. John Nieters who diagnosed a left tibial fracture and checked a box indicating that the condition was caused or aggravated by the employment activity. Dr. Nieters stated, "Patient ran into barstool which caused fracture." He indicated that treatment was also provided by a Dr. Mahir Patel but offered no other specific information. There is also a form of the same date providing some work requirements for appellant's job. Also on the same date, the Office received a portion of a Postal Service safety form which repeated appellant's injury description and stated that she suffered from an unspecified bone condition which made her prone to fractures.

By letter dated February 21, 2008, the Office notified appellant that the evidence in the file was not sufficient and specifically identified a physician's opinion on causal connection as being essential. In addition, the Office letter contained an enclosure which requested other necessary information. Apparently in response, the Office received a prescription slip from Dr. Patel dated February 6, 2008 which stated: "sit down work" without explanation. In addition, there was an off work note dated February 7, 2008 which placed appellant out of work between February 4 and 11, 2008 and prohibited overtime work from February 12 to 15, 2008. The Office also received some further information on March 17, 2008 part of which concerned appellant's need to limit her walking and to perform her work while seated. There was an Office form dated February 29, 2008 from Dr. Patel, which largely repeated the information submitted by Dr. Nieters on February 15, 2008. Dr. Patel described appellant's condition as a "bilateral stress fracture" and stated that she was treated February 6 and 29, 2008. He opined that appellant did not need hospital care and had no preexisting condition.

On March 26, 2008 the Office denied appellant's claim because she did not establish the time, place and manner of the incident or that she had sustained an injury within the meaning of the Federal Employees' Compensation Act.

### **LEGAL PRECEDENT**

When an employee claims an injury in the performance of duty, he or she must submit sufficient evidence to establish a specific event, incident or exposure occurring at the time, place and in the manner alleged. The employee must also establish that such event, incident or exposure caused an "injury" as defined in the Act and its regulations.<sup>1</sup> Neither the fact that the

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<sup>1</sup> *O. Paul Gregg*, 46 ECAB 624 (1995).

condition became apparent during a period of employment, nor the belief of appellant that the condition was caused or aggravated by the employment conditions, is sufficient to establish causal relationship.<sup>2</sup> Office regulations define “injury” as a wound or condition of the body induced by accident or trauma, and includes a disease or illness proximately caused by employment for which benefits are provided under the Act.<sup>3</sup>

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee’s statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action. In determining whether a *prima facie* case has been established, such circumstances as late notification of injury, lack of confirmation of injury and failure to obtain medical treatment may, if unexplained, cast serious doubt on an employee’s statements. The employee has not met the burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.<sup>4</sup>

The medical opinion to establish a claim must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factor identified by the employee.<sup>5</sup> The issue of whether an employee’s disability is related to an accepted condition is a medical question which must be answered by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>6</sup>

### ANALYSIS

Appellant’s allegation that she struck her knee on a stool on the alleged date is corroborated by a witness statement. The Board therefore finds that the incident occurred as alleged. However, the critical issue for this claim is whether this incident caused the diagnosed injury.

Appellant’s conclusion that her left leg must have been fractured by the January 30, 2008 incident is undermined by her delay in reporting the alleged injury until February 15, 2008. Further, she did not seek medical attention on the date of the occurrence. It appears that there was significant pain associated with the event. Appellant and her physicians have not explained these delays. The factual basis of her claim remains clouded until this is resolved.

Appellant has also failed to meet her burden of proof that she sustained an injury from the employment incident. The record contains no medical evidence providing any explanation of how her fractured tibia was caused by bumping the stool at work. Neither Dr. Nieters nor

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<sup>2</sup> *Ronald M. Cokes*, 46 ECAB 967 (1995).

<sup>3</sup> *Geraldine Sutton*, 46 ECAB 1026 (1995).

<sup>4</sup> *Nathaniel Cooper*, 46 ECAB 1053 (1995).

<sup>5</sup> *Roy L. Humphrey*, 57 ECAB 238 (2005).

<sup>6</sup> *Sandra Pruitt*, 57 ECAB 126 (2005).

Dr. Patel offers a rationalized opinion explaining how the alleged trauma to the left leg is related to the diagnosed stress fracture. In the current posture of the record, appellant has failed to establish that she suffered a compensable injury.

**CONCLUSION**

The Board finds that the Office properly found that appellant has not established that she sustained an injury at work as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 26, 2008 is affirmed.

Issued: October 21, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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