United States Department of Labor
Employees' Compensation Appeals Board

L.M., Appellant	)	
	)	
and	)	**Docket No. 08-1688**
	)	**Issued: January 2, 2009**
DEPARTMENT OF THE ARMY,	)	
DIRECTORATE OF PUBLIC WORKS,	)	
West Point, NY, Employer	)	
	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 29, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated March 5, 2008 denying his claim for compensation. Pursuant to 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 in establishing that he sustained a traumatic injury in the performance of duty on July 24, 2007.

FACTUAL HISTORY

On July 26, 2007 appellant, then a 52-year-old sheet metal mechanic filed a traumatic injury claim alleging that he twisted his right knee after carrying a ladder that caught on the corner of a door on July 24, 2007. He did not stop work.

Appellant submitted a July 25, 2007 Form CA-16, attending physician's report, from Dr. John McLaughlin, a Board-certified orthopedic surgeon, and a treatment note of the same

date. On the CA-16 form, Dr. McLaughlin stated that appellant fell at work. He diagnosed osteoarthritis of the right knee. Dr. McLaughlin also checked a box "yes" on the form report indicating his belief that appellant's condition was caused or aggravated by the employment incident. He noted administering a cortisone injection and advised that appellant could continue regular work. Dr. McLaughlin's treatment note reported previously treating appellant for patellofemoral pain syndrome and chondromalacia of the right knee. He noted injecting appellant's right knee with medication and releasing him to normal activity.

In an August 1, 2007 treatment note, Dr. McLaughlin stated that appellant reported experiencing pain climbing stairs and getting up from sitting. He observed a significant callus over the anterior of appellant's right knee, which supported his diagnosis of chondromalacia with the possibility of a meniscal tear. Dr. McLaughlin noted that a prior magnetic resonance imaging (MRI) scan revealed degenerative changes of the meniscus but no frank meniscus tear. He recommended a diagnostic arthroscopy and chondroplasty of the knee.

Appellant subsequently requested authorization for diagnostic arthroscopy and chondroplasty. He also submitted a July 11, 2006 MRI scan of the right knee where Dr. Robert Greco, Board-certified in diagnostic radiology, diagnosed degenerative changes of the meniscus, hyaline cartilage thinning and a popliteal cyst with fluid along the medial head of the knee.

On January 30, 2008 the Office advised appellant of the type of factual and medical evidence needed to establish his claim and allowed him 30 days to submit such evidence. In particular, it noted that the record reflected that appellant had degenerative changes in his knee dating back to July 11, 2006. The Office requested that appellant submit a physician's opinion explaining how the reported work incident caused or aggravated the claimed injury.

Appellant submitted a Form CA-17, duty status report, dated August 2, 2007 in which Dr. McLaughlin listed osteoarthritis of the right knee as the "diagnosis due to injury." Dr. McLaughlin also checked a box "yes" indicating that the history of the injury provided by appellant corresponded to the injury as described by appellant's supervisor. The report also indicated that appellant could resume regular work duties. In a March 5, 2008 decision, the Office denied appellant's claim for compensation on the grounds that the medical evidence did not establish that appellant's knee condition was caused by an incident of employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act 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, that the claim was 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 on a traumatic injury or an occupational disease.[1]

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

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.[2] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[3] Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.[4]

ANALYSIS

The record supports that, on July 24, 2007, appellant was carrying a ladder that caught the edge of a door. However, he has not submitted sufficient medical evidence establishing that the July 24, 2007 incident caused or aggravated his diagnosed medical condition.

On the CA-16 form dated July 25, 2007, Dr. McLaughlin supported causal relationship by checking a box "yes" on the form report to indicate that appellant's right knee osteoarthritis was caused or aggravated by a fall at work. However, he did not provide any medical rationale explaining how or why the July 24, 2007 employment incident caused or aggravated the osteoarthritis in appellant's right knee. Without medical rationale, this opinion has little probative value and is insufficient to establish a causal relationship.[5] Likewise, in the August 2, 2007 duty status report, Dr. McLaughlin indicated through a checkmark for "yes" that the history of the injury as described by appellant corresponded to the injury as described by the employing establishment. To the extent that this may be viewed as support for causal relationship, as noted, checking a box "yes" is insufficient to establish a causal relationship in the absence of medical rationale, or reasoning, which explains the reasons for the physician's opinion. For example, Dr. McLaughlin did not explain the process by which the ladder catching on a door would have caused or aggravated a particular diagnosed condition.

Dr. McLaughlin's July 25, 2007 treatment note reports appellant's treatment for patellofemoral pain syndrome. However, he does not opine as to the cause of appellant's

[2] *S.P.*, 59 ECAB ___ (Docket No. 07-1584, issued November 15, 2007); *John Carlone*, 41 ECAB 354 (1989).

[3] *John Carlone*, *supra* note 2.

[4] *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] *See Lucrecia Nielsen*, 42 ECAB 583 (1991); *Lillian Jones*, 34 ECAB 379 (1982) (an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history given is of little probative value).

condition and he makes no mention of appellant's July 24, 2007 work incident.[6] Similarly, Dr. McLaughlin's August 1, 2007 treatment note offered a diagnosis and recommended an arthroscopy but he did not state his opinion as to whether appellant's July 24, 2007 work incident caused or aggravated the diagnosed condition. These treatment notes are insufficient to establish appellant's claim because they do not support that the July 24, 2007 incident caused or aggravated a diagnosed medical condition.

Appellant also provided Dr. Greco's July 11, 2006 report. While this report supports that appellant had a preexisting degenerative condition of the right knee, it predates the claimed July 24, 2007 injury and does not otherwise address employment as a cause of any condition.

The Office notified appellant of the type of evidence needed to establish his claim on January 20, 2008. Specifically, it informed him that it was crucial that he submit a physician's medical explanation of how the alleged work incident contributed to his osteoarthritis and knee degeneration. However, as noted, appellant has not submitted a reasoned medical opinion explaining how the work incident involving carrying a ladder caused or aggravated any diagnosed conditions. Consequently, the Board finds that the Office properly denied his claim.[7]

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a traumatic injury on July 24, 2007 causally related to his employment.[8]

[6] *A.D.*, 58 ECAB ___ (Docket No. 06-1183, issued November 14, 2006) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

[7] The record indicates that the employing establishment issued appellant a Form CA-16. The Board has held that where an employing establishment properly executes a Form CA-16 which authorizes medical treatment or a medical examination as a result of an employee's claim of sustaining an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *Elaine Kreymborg*, 41 ECAB 256 (1989). The Office did not address this matter in its decision.

[8] Appellant submitted new evidence on appeal. However, the Board may only review evidence that was in the record at the time the Office issued its final decision. *See* 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the March 5, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 2, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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