

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LESLIE H. MATSUMOTO and DEPARTMENT OF TRANSPORTATION,  
FEDERAL AVIATION ADMINISTRATION, Los Angeles, CA

*Docket No. 02-1986; Submitted on the Record;  
Issued May 28, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant met his burden of proof to establish that he sustained an injury in the performance of duty.

On May 9, 2002 appellant, then a 48-year-old airway transportation system specialist, filed a notice of traumatic injury and claim for compensation, alleging that he twisted his left knee while “stepping off of [the] back of pickup and caught left foot under [a] pressure washer sprayer frame.” A witness statement from Kenneth Okada indicated that he heard of appellant’s incident and that appellant mentioned to him that he twisted his knee when he fell off the bed of his pickup truck and was complaining of pain to his left knee.

By letter dated May 22, 2002, the Office of Workers’ Compensation Programs requested that appellant and the employing establishment submit additional evidence including a physician’s opinion supported by a medical explanation as to how the reported work incident caused or aggravated his claimed injury.

In response, appellant submitted a photocopy of the first page of the authorization for examination and/or treatment form. The form indicated that appellant’s supervisor, Randall J. Reeves, signed the form on May 9, 2002, authorizing appellant to be treated by Dr. David Seriguchi.<sup>1</sup> The record does not contain a copy of the completed CA-16 by Dr. Seriguchi. No additional medical evidence was submitted.

By decision dated June 28, 2002, the Office denied appellant’s claim for compensation on the grounds that appellant failed to establish fact of injury.

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<sup>1</sup> *Alice M. Roberts*, 42 ECAB 747 (1991). The employing establishment executed a CA-16 authorization for treatment of appellant on May 9, 2002 to Dr. Seriguchi. This Office form creates a contractual obligation, which does not involve appellant directly, to pay the cost for the authorized medical examination, regardless of the action taken on the claim.

The Board finds that appellant failed to establish a causal relationship between his May 9, 2002 left knee injury and his employment-related incident.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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 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.<sup>3</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

In order to determine whether an employee has sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether a "fact of injury" has been established. There are two components involved in establishing fact of injury which must be considered. 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.<sup>5</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused personal injury.<sup>6</sup> The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence.

In the instant case, the Office concluded that the evidence of record was sufficient to establish that the claimed incident occurred on May 9, 2002 as alleged. Because an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence,<sup>7</sup> the Board finds that the work-related incident occurred on May 9, 2002, as alleged. However, the Board also finds that appellant has submitted insufficient evidence to establish a causal relationship between his left knee injury and the employment incident on May 9, 2002.

To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the factors of employment identified by appellant as causing his injury and, taking these into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion.<sup>8</sup>

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Elaine Pendleton*, *supra* note 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Linda S. Christian*, 46 ECAB 598 (1995).

<sup>8</sup> *See Woodhams*, *supra* note 4.

In support of his claim, appellant submitted an authorization for examination and/or treatment form. No other evidence of record establishes a causal relationship between appellant's alleged employment injury.

Despite being advised of the deficiencies in his medical evidence, appellant failed to submit a rationalized opinion addressing the issue of causal relationship and, therefore, failed to establish fact of injury. As appellant has failed to establish fact of injury, he is not entitled to compensation.

The decision of the Office of Workers' Compensation Programs dated June 28, 2002 is hereby affirmed.

Dated, Washington, DC  
May 28, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member