

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**ERIC E. HOFFMAN, Appellant**

**and**

**DEPARTMENT OF LABOR, CLEARFIELD  
JOB CORPS CENTER, Clearfield, UT, Employer**

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**Docket No. 05-308  
Issued: April 15, 2005**

*Appearances:*  
*Eric E. Hoffman, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chairman  
DAVID S. GERSON, Alternate Member  
A. PETER KANJORSKI, Alternate Member

**JURISDICTION**

On November 17, 2004 appellant filed a timely appeal from the October 5, 2004 merit decision of the Office of Workers' Compensation Programs, which denied his claim on the grounds that he failed to establish that he sustained an injury due to a February 1, 2004 employment injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this claim.

**ISSUE**

The issue is whether appellant has established that he sustained an injury in the performance of duty on February 1, 2004.

## **FACTUAL HISTORY**

On March 1, 2004 appellant,<sup>1</sup> a 17-year-old apprentice, filed a traumatic injury claim alleging that he sustained a left knee fracture on February 1, 2004 when he hit a steel photo shooting camera while hurrying into the room.

By letter dated August 19, 2004, the Office advised appellant that the evidence of record was insufficient to establish his claim. It requested that he further describe the work activity he implicated in causing his condition and medical evidence identifying any condition caused and discussing causal relationship.

On August 30, 2004 the Office received an August 27, 2004 response from appellant. Subsequently, the Office received medical charts dated March 1, June 8 and August 5, 2004, a March 1, 2003 x-ray interpretation finding no fracture, an August 11, 2004 authorization for examination and/or treatment (Form CA-16) for a knee injury and a September 7, 2004 California State form injury report.

The March 1, June 8 and August 5, 2004 medical charts diagnose left knee pain. The March 1, 2004 medical chart included a history to the employment injury and reported pain on palpation, but no swelling or bruising.

In a California State form injury report dated September 7, 2004, Dr. Glenn A. Fujihara, a treating Board-certified family practitioner, described the employment injury as occurring on February 1, 2004 when appellant injured his left knee due to his “moving quickly through the shop” and then smashing “his left knee into the print table.” He noted that appellant related that he was seen at the Clearfield Clinic a few times subsequent to the incident. A physical examination revealed “tenderness of the quadriceps muscle and tendon distally as it inserts into the upper part of the patella with tenderness in that part of the patella,” no swelling or joint effusion was seen and appellant had full range of motion in his knee. Dr. Fujihara diagnosed left knee contusion, left knee sprain and left thigh strain due to the employment injury.

By decision dated October 5, 2004, the Office accepted that the incident occurred as alleged on February 1, 2004, but rejected appellant’s claim finding that he failed to establish that he sustained a fractured left knee causally related to the employment incident. The Office found that appellant had not submitted sufficient rationalized medical evidence discussing the causal relationship of his knee condition with the implicated employment factor.

## **LEGAL PRECEDENT**

An employee seeking benefits under the Act has the burden of establishing that the essential elements of 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

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<sup>1</sup> Appellant’s first name was misspelled on the CA-1 form. The correct spelling of his first name is “Eric” not “Eirc.”

claimed are causally related to the employment injury.<sup>2</sup> These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. 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>3</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence to establish that the employment incident caused a personal injury.<sup>4</sup> The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.<sup>5</sup>

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors.<sup>6</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>7</sup> must be one of reasonable medical certainty<sup>8</sup> 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 claimant.<sup>9</sup>

### ANALYSIS

In this case, the Office accepted that appellant was a federal employee who timely filed his claim for compensation benefits. The Office further accepted that the February 1, 2004 employment incident occurred at the time, place and in the manner alleged. The remaining issue is whether the medical evidence establishes that appellant sustained an injury causally related to

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<sup>2</sup> *Derrick C. Miller*, 54 ECAB \_\_\_\_ (Docket No. 02-140, issued December 23, 2002).

<sup>3</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>4</sup> *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

<sup>5</sup> See *Tomas Martinez*, 54 ECAB \_\_\_\_ (Docket No. 03-396, issued June 16, 2003).

<sup>6</sup> *Conard Hightower*, 54 ECAB \_\_\_\_ (Docket No. 02-1568, issued September 9, 2003).

<sup>7</sup> *Tomas Martinez*, *supra* note 5.

<sup>8</sup> *John W. Montoya*, 54 ECAB \_\_\_\_ (Docket No. 02-2249, issued January 3, 2003).

<sup>9</sup> *Judy C. Rogers*, 54 ECAB \_\_\_\_ (Docket No. 03-565, issued July 9, 2003).

the employment incident. In order to establish causal relationship between the diagnosed condition and the employment incident, appellant must submit rationalized medical evidence, based on a complete factual and medical background, supporting such causal relationship.<sup>10</sup>

Proceedings under the Act are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.<sup>11</sup>

In a report dated September 7, 2004, Dr. Fujihara discussed appellant's history of his knee at work on February 1, 2004. He described the employment injury as occurring on February 1, 2004 when appellant injured his left knee due to his "moving quickly through the shop" and then smashing "his left knee into the print table." He noted that appellant received treatment. Dr. Fujihara diagnosed left knee contusion, left knee sprain and left thigh strain due to the employment injury.

The Board notes that Dr. Fujihara provided a consistent history of injury and, in his September 1, 2004 form report, related appellant's condition of left knee contusion, left knee sprain and left thigh strain to the February 1, 2004 employment incident. Although Dr. Fujihara's report does not contain a finding of causal relationship supported by medical rationale sufficient to discharge appellant's burden of proving by the weight of the reliable, substantial and probative evidence that he sustained an injury in the performance of duty on September 1, 2004, the reports raise an inference of causal relationship sufficient to require further development by the Office.<sup>12</sup> Additionally, the record contains no opposing medical evidence. The case will therefore be remanded to the Office for further development of the medical evidence to determine whether appellant sustained an injury resulting from the February 1, 2004 employment incident and, if so, the exact nature and extent of any disability arising from the employment injury. After such development of the case record as the Office deems necessary, it shall issue a *de novo* decision.

### CONCLUSION

The Board finds that the case is not in posture for decision.

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<sup>10</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>11</sup> *William B. Webb*, 56 ECAB \_\_\_\_ (Docket No. 04-1413, issued November 23, 2004)

<sup>12</sup> *Phillip L. Barnes*, 55 ECAB \_\_\_\_ (Docket No. 02-1441, issued March 31, 2004); *John J. Carlone*, *supra* note 3.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 5, 2004 is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: April 15, 2005  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member