

performance of duty. She described the cause of injury as “in the basement hallway in front of [the] credit union a metal cover/trimming on the floor.” Appellant did not stop work.

On November 10, 2004 appellant filed a recurrence of disability claim in November 2004 due to her October 29, 2003 employment injury. She did not stop work. In a letter dated December 6, 2004, the Office advised appellant of the factual and medical evidence necessary to establish her claim for a traumatic injury on October 29, 2003.

In a report dated December 3, 2004, Dr. Syed A. Zahir, a Board-certified orthopedic surgeon, related:

“[Appellant] ... apparently injured her knee on October 29, 2003 when she was stepping down from the elevator at the [employing establishment] and fell down, injuring her knees. She was seen and treated at the [employing establishment]. She continued to have pain and discomfort in both knees with giving out of the knees and repeated effusion of the left knee more than the right.”

On examination, Dr. Zahir listed findings of effusion and tenderness of the left knee and tenderness of the right knee. He diagnosed internal derangement of the knees and early degenerative arthritis. Dr. Zahir recommended a magnetic resonance imaging scan study and arthroscopic surgery. He stated, “I believe she requires further treatment and that her condition is related to the injury that she sustained on October 29, 2003.”

By decision dated December 29, 2004, the Office denied appellant’s claim on the grounds that she did not establish that the employment incident occurred on October 29, 2004, as alleged.

The record contains a clinic note dated October 29, 2003 indicating that appellant received treatment on that date after she fell on her hands and knees in the basement outside the credit union.¹ The clinic note indicated that she had “no obvious injury ...” and recommended that she visit a physician if the pain continued.

In a statement dated December 29, 2004, received by the Office on January 13, 2005, appellant related that she tripped on access points in the basement trying to get in the elevators. Appellant also provided a corrected CA-1 form which contained a witness statement which verified her fall. On the form she related that she fell when she tripped on a metal covering while walking in the hall.

On January 11, 2005 appellant requested reconsideration of her claim. She related:

“I was walking in the basement hallway at the [employing establishment] on October 29, 2003, and I tripped over the metal expansion joint that is embedded in the concrete floor in the basement and fell on my hands and knees. The edge of the expansion joint was pulled up and tripped me.”

¹ The name of the person completing the clinic note is not legible.

By decision dated April 12, 2005, the Office modified the December 29, 2004 decision to find that appellant had established that the employment incident occurred as alleged. The Office determined, however, that the medical evidence was insufficient to establish that she sustained a medical condition resulting from the incident.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 filed within the applicable time limitation; that an injury was sustained while 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.³ 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.⁴

To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.⁶ An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.⁷

In order to satisfy his burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the employment incident caused the alleged injury.⁸ 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 employee's alleged injury and the employment incident.⁹ The physician's opinion must be based on a complete factual and medical history of the employee, must be of reasonable certainty and

² 5 U.S.C. §§ 8101-8193.

³ *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 3.

⁵ *Delphyne L. Glover*, 51 ECAB 146 (1999).

⁶ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁷ *Gary J. Watling*, *supra* note 6.

⁸ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

⁹ *Gary J. Watling*, *supra* note 6.

must rationally explain the relationship between the diagnosed injury and the employment incident as alleged by the employee.¹⁰

ANALYSIS

Appellant alleged that she injured herself on October 29, 2003 when she tripped over a metal expansion joint in the floor of the basement and fell on her hands and knees. She provided a statement from a coworker who witnessed her fall. Appellant has established that the October 29, 2003 incident occurred at the time, place and in the manner alleged. The issue, consequently, is whether she sustained a compensable injury as a result of the incident.

The Board finds that appellant has not established that the October 29, 2003 employment incident resulted in an injury. The question of whether an employment incident caused an injury is generally established by medical evidence.¹¹ Appellant submitted a report dated December 3, 2004 from Dr. Zahir, who noted that she “apparently injured her knee on October 29, 2003 when she was stepping down from the elevator at the [employing establishment] and fell down, injuring her knees.” He diagnosed internal derangement of the knees and early degenerative arthritis. Dr. Zahir stated that he believed that “her condition is related to the injury that she sustained on October 29, 2003.” His opinion, however, that appellant “apparently” injured herself falling down exiting an elevator at work is couched in speculative terms and of diminished probative value.¹² Further, Dr. Zahir relied upon an inaccurate history of injury, that of appellant falling while getting off an elevator, rather than tripping and falling while walking in the basement.¹³ Additionally, he did not provide adequate rationale explaining how the diagnosed conditions of internal derangement and degenerative arthritis resulted from the October 29, 2003 employment incident. Medical reports not containing rationale on causal relationship are entitled to little probative value and are generally insufficient to meet a claimant’s burden of proof.¹⁴

As appellant has not submitted rationalized medical evidence to support her allegation that she sustained an injury due to tripping and falling at work on October 29, 2003, she has failed to meet her burden of proof to establish her claim.

CONCLUSION

The Board finds that appellant has not established that she sustained an injury on October 29, 2003 in the performance of duty.

¹⁰ See *John W. Montoya*, 54 ECAB ____ (Docket No. 02-2249, issued January 3, 2003); *Shirley R. Haywood*, 48 ECAB 404 (1997).

¹¹ See *John W. Montoya*, *supra* note 10.

¹² *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

¹³ *Frank Luis Rembisz*, 52 ECAB 147 (2000).

¹⁴ *Jimmie H. Duckett*, 52 ECAB 332 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated April 12, 2005 and December 29, 2004 are affirmed.

Issued: August 11, 2005
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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