

The issue is whether appellant sustained an injury to her knees on December 15, 2006 while in the performance of duty.

FACTUAL HISTORY

This is the second appeal in this case.¹ By decision dated February 7, 2008, the Board affirmed Office decisions dated February 1 and August 3, 2007 denying appellant's claim for a bilateral knee injury on December 15, 2006. The facts of the previous Board decision are incorporated herein by reference.

On February 23, 2008 appellant requested reconsideration and submitted additional medical evidence. In a January 28, 2008 report, Dr. John W. Ellis, Board-certified in family medicine and environmental medicine, reviewed appellant's medical history and provided findings on physical examination. He discussed appellant's claim for an injury on December 15, 2006 and also her two accepted knee claims. Regarding the December 15, 2006 claim, Dr. Ellis stated that she was delivering mail and tripped on a piece of concrete but did not fall. Appellant felt pain in her left knee and it became swollen. Over the next several days her right knee began to hurt. On physical examination of appellant's right knee, Dr. Ellis noted arthroscopic scars. There was no crepitation on movement of the patella. There was laxity of the medial collateral and anterior cruciate ligaments. Circumference of the right knee was 39.9 centimeters. There was no fluid in the right knee. Appellant had 84 degrees of flexion and full extension of the right knee. On physical examination of the left knee, there was fluid behind the patella. There was laxity of the lateral collateral ligament. There was crepitation on movement of the patella. There was also a click as the patella did not track well on the lateral aspect of the knee. The left knee had 96 degrees of flexion and full extension. Circumference of the left knee measured 40.8 centimeters. Dr. Ellis attributed appellant's right knee conditions to her 2005 accepted occupational claim under OWCP File No. xxxxxx680. Her diagnosed right knee conditions were acute medial meniscus tear and strain of the anterior cruciate and posterior cruciate ligaments, traumatic arthritis/chondromalacia and laxity of the medial collateral ligament due to a partial meniscectomy. He diagnosed a contusion of the left knee with chondromalacia of the patella and medial and lateral femoral condyles as related to appellant's accepted December 27, 2007 employment injury. Regarding appellant's claim for an injury on December 15, 2006 which is the subject of this appeal, Dr. Ellis diagnosed internal derangement with strain of the lateral collateral ligament, chondromalacia and probable meniscus tear of the left knee. She did not remember which foot became caught on a piece of concrete but she tripped and almost fell. This caused sudden strain and internal derangement of the left knee. Appellant had immediate swelling of the left knee which showed an acute internal injury.

¹ Docket No. 07-2232 (issued February 7, 2008). On December 19, 2006 appellant, then a 43-year-old letter carrier, filed a claim alleging that she injured both knees on December 15, 2006 when she tripped on an uneven driveway surface and almost fell. By decisions dated February 1 and August 3, 2007, the Office denied appellant's claim on the grounds that the medical evidence did not establish that she sustained an injury to her knees on December 15, 2006 causally related to her employment. Appellant has two cases accepted for knee conditions. OWCP File No. xxxxxx680 is an occupational disease claim accepted for right knee medial meniscus tear, right knee cruciate ligament strains, right knee traumatic arthritis and right knee chondromalacia patella beginning in November 2005. OWCP File No. xxxxxx229 is a traumatic injury claim accepted for a left knee contusion and left knee medial meniscus tear sustained on December 27, 2007. Appellant is receiving compensation for temporary total disability on the periodic rolls for her accepted left knee condition and underwent left knee arthroscopy on June 13, 2008.

By compensation order dated August 25, 2008, the Office reviewed the claim on the merits and denied modification.

LEGAL PRECEDENT

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. There are two components involved in establishing the fact of injury. 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 medical evidence to establish that the employment incident caused a personal injury.³ An employee may establish that the employment incident occurred as alleged but fail to show that his or her disability or condition relates to the employment incident.

To establish a causal relationship between an employee's condition and any disability claimed and the employment event or incident, he or she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of 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 claimant.⁴

ANALYSIS

The Board finds that the evidence is insufficient to establish that appellant sustained an injury to her knees on December 15, 2006 while in the performance of duty.

Dr. Ellis reviewed appellant's medical history and provided findings on physical examination. He discussed her claim for an injury on December 15, 2006 and also her two accepted knee claims. Regarding the December 15, 2006 claim, Dr. Ellis stated that appellant was delivering mail and tripped on a piece of concrete but did not fall. Appellant felt pain in her left knee and it became swollen. Over the next several days her right knee began to hurt. Dr. Ellis diagnosed right knee acute medial meniscus tear and strain of the anterior cruciate and posterior cruciate ligaments, traumatic arthritis/chondromalacia and laxity of the medial collateral ligament due to a partial meniscectomy. He attributed these right knee conditions to appellant's 2005 accepted occupational claim under OWCP File No. xxxxxx680. Dr. Ellis diagnosed a contusion of the left knee with chondromalacia of the patella and medial and lateral

² *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

³ *T.H.*, 59 ECAB ____ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

⁴ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

femoral condyles as causally related to appellant's accepted December 27, 2007 employment injury.

Regarding appellant's claim for a bilateral knee injury on December 15, 2006, Dr. Ellis diagnosed internal derangement with strain of the lateral collateral ligament, chondromalacia and probable meniscus tear of the left knee. He stated that appellant's left knee conditions were the result of an acute injury that occurred when appellant caught one of her feet on a piece of concrete, tripped and almost fell. This caused sudden strain, internal derangement and swelling of the left knee. Dr. Ellis' opinion is not consistent with contemporaneous medical evidence. In its February 7, 2008 decision, the Board noted that, on December 19, 2006, a few days after the claimed December 15, 2006 bilateral knee injury, Dr. O.E. Reavill noted knee pain but stated that x-rays and findings on physical examination were normal. Dr. Reavill opined that appellant could perform her regular work. Dr. Ellis did not explain how the left knee conditions he diagnosed in January 2008, internal derangement and strain of the lateral collateral ligament, chondromalacia and probable meniscus tear of the left knee, were causally related to the December 15, 2006 work incident. Thorough medical rationale is necessary in light of the fact that diagnostic testing and physical examination at the time of the incident did not reveal any of these conditions. Such rationale is important because Dr. Ellis did not examine appellant until one year after the December 15, 2006 work incident. Additionally, clear medical rationale is needed to distinguish the December 15, 2006 claim for bilateral knee injury from appellant's other accepted right and left knee claims. For these reasons, the report of Dr. Ellis is not sufficient to establish that appellant sustained a bilateral knee injury causally related to the December 15, 2006 tripping incident at work.

Appellant failed to provide rationalized medical evidence establishing that she sustained an injury to her knees causally related to the December 15, 2007 tripping incident. Therefore, appellant did not meet her burden of proof. The Office properly denied her claim.

CONCLUSION

The Board finds that appellant failed to establish that she sustained an injury to her knees on December 15, 2006 while in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 25, 2008 is affirmed.

Issued: June 2, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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