

FACTUAL HISTORY

On March 2, 2007 appellant, then a 40-year-old officer, filed a traumatic injury claim alleging that on March 1, 2007 she sustained a right knee injury as a result of packing, wrapping, removing and relocating office contents. Medical records dated from March 3 to June 5, 2007 and primarily from Dr. Neil S. Roth, an attending Board-certified orthopedic surgeon, stated that appellant sustained right knee patella tendinitis and muscle strain/sprain, and mild medial compartment joint space narrowing in both knees. In a March 6, 2007 disability certificate, Dr. Roth released appellant to light-duty work through April 10, 2007.

In a March 19, 2007 letter, the employing establishment controverted appellant's claim, contending that she voluntarily performed the above-noted work activities.

In a May 15, 2007 report, Dr. Roth stated that appellant sustained a stress fracture of the right hip. A May 10, 2007 magnetic resonance imaging (MRI) scan report by Dr. Keith A. Tobin, a Board-certified orthopedic surgeon, revealed an incomplete fracture at the base of the femoral neck in a pattern that was more typically seen with a stress-related injury. Dr. Tobin also found mild to moderate greater trochanteric bursitis.

In an April 10, 2007 report, Dr. Roth stated that appellant suffered from right groin pain. On April 17, 2007 Dr. Karen O. Fried, a Board-certified radiologist, performed a computerized tomography (CT) scan which revealed nonenlarged bilateral inguinal lymph nodes. She found no evidence of an inguinal hernia.

By letter dated July 12, 2007, the Office requested that appellant submit additional factual and medical evidence to establish her claim.

In an August 8, 2007 letter, appellant, through counsel, stated that she was in the performance of her work duties on March 1, 2007 while moving office equipment. She sustained an injury when she caught a cabinet falling from a dolly. On February 28, 2007 appellant was assigned to putting the contents of an office into boxes. She lifted the boxes and placed them on pallets. This assignment involved placing furniture on a dolly and pushing it. Appellant experienced pain to the hip, right knee and leg and lower back. Counsel contended that the evidence established that her injuries were causally related to the March 1, 2007 incident.

In an April 4, 2007 report, Dr. Howard A. Rose, a Board-certified orthopedic surgeon, reviewed a history that appellant injured herself while moving a file cabinet. Appellant complained about pain to the hip, lateral side of her right knee and groin area. On physical examination of the right lower extremity, Dr. Rose reported full range of motion of the hip and knee. He found no swelling or meniscal signs in the knee. The ligament and quadriceps strength was normal. Dr. Rose diagnosed a vastus lateralis sprain.

By decision dated August 24, 2007, the Office denied appellant's claim. It found the evidence insufficient to establish that the March 1, 2007 incident occurred at the time, place and in the manner alleged.

In an August 30, 2007 disability certificate, Dr. Melvin L. Adler, a Board-certified orthopedic surgeon, stated that appellant was totally disabled for work until further notice. He noted a pending MRI scan.

In a March 29, 2007 report, Dr. Gerald Surya, a Board-certified internist, reviewed a history that on March 1, 2007 appellant twisted her right knee while moving baggage. He opined that she sustained a right knee sprain and tendinitis as a result of this incident.

On October 1, 2007 appellant filed claims for wage-loss compensation (Form CA-7) for the period September 2 to 29, 2007. On January 4, 2008 she filed CA-7 forms for wage-loss compensation for the period October 1, 2007 to January 4, 2008.

In a March 6, 2008 letter, the Office denied appellant's claims for compensation based on its August 24, 2007 decision. It noted that it could not pay compensation for claims that had not been accepted.

By letter dated August 14, 2008, appellant, through counsel, requested reconsideration of the August 24, 2007 decision. Counsel contended that the evidence established that the March 1, 2007 incident occurred as alleged and the medical evidence established that appellant sustained disabling injuries causally related to this incident.

In a March 6, 2007 report, Dr. Roth reviewed a history that on March 1, 2007 appellant was moving heavy boxes as part of her regular work duties when she caught a cabinet falling from a dolly. Afterwards, she complained about pain and swelling over the patellar base of the knee. Dr. Roth noted his prior diagnoses of right knee patellofemoral syndrome/patellar tendinitis, right hip greater trochanteric bursitis and femoral neck stress fracture and right groin pain. He noted that the right hip stress fracture was healing. Dr. Roth opined that the diagnosed conditions were caused by the March 1, 2007 incident. It was very possible that repetitive overuse and lifting of heavy objects could produce pain and tenderness in the knee and hip resulting in patellar tendinitis and greater trochanteric bursitis. Additionally, the repetitive lifting of heavy objects in a woman could certainly cause forces that supersede the bony threshold and induce a stress fracture in the hip. Dr. Roth concluded that the diagnosed conditions would likely resolve without any significant long-term disability.

By decision dated November 3, 2008, the Office affirmed the August 24, 2007 decision. It accepted that appellant was moving office equipment on March 1, 2007 as alleged and that she sustained a right knee sprain and tendinitis causally related to the accepted employment incident. The Office found, however, that her right hip fracture and bursitis, and resulting disability were not causally related to the March 1, 2007 right knee sprain.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing 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

¹ 5 U.S.C. §§ 8101-8193.

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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship 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. 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.⁴ Neither the fact that appellant's condition became apparent during a period of employment nor her belief that the condition was caused by her employment, is sufficient to establish a causal relationship.⁵

ANALYSIS -- ISSUE 1

The Office accepted that appellant moved office equipment on March 1, 2007 while working as an officer at the employing establishment and sustained a right knee sprain and tendinitis. The Board finds that the medical evidence submitted is insufficient to establish that her diagnosed right hip stress fracture and bursitis, and right groin pain were caused or aggravated by the March 1, 2007 employment injury.

Dr. Roth's March 6, 2007 report stated that appellant's right knee patellofemoral syndrome/patellar tendinitis, right hip greater trochanteric bursitis and femoral neck stress fracture, and right groin pain were caused by the March 1, 2007 employment incident. He stated that it was very "possible" that repetitive overuse and lifting of heavy objects could produce pain and tenderness in the knee and hip resulting in patellar tendinitis and greater trochanteric bursitis. Dr. Roth also stated that repetitive lifting of heavy objects in a woman "could certainly" cause forces that supersede the bony threshold and induce a stress fracture in the hip. The Board has

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Gary J. Watling*, 52 ECAB 357 (2001).

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

⁵ *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

held that medical opinions that are speculative or equivocal in character are of diminished probative value.⁶ The Board finds that Dr. Roth's opinion regarding causal relation is speculative in nature and, thus, insufficient to establish appellant's claim. The Board further finds that his diagnosis of right groin pain is insufficient to establish appellant's claim. A physician's mere diagnosis of pain, without more by way of an explanation, does not constitute a basis for payment of compensation.⁷ Dr. Roth did not explain with sufficient specificity how appellant's job duties caused her right hip and groin conditions. On April 10, 2007 he stated that appellant suffered from right groin pain. This is insufficient to establish her claim.⁸ Dr. Roth did not provide any medical rationale explaining how or why appellant's right groin condition was caused by the March 1, 2007 employment injury.

Dr. Fried's April 17, 2007 CT scan revealed nonenlarged bilateral inguinal lymph nodes. She found no evidence of an inguinal hernia. Dr. Fried did not address whether appellant sustained an inguinal hernia caused or contributed to by the March 1, 2007 employment injury.

Dr. Tobin's May 10, 2007 MRI scan found an apparent incomplete fracture at the base of the femoral neck in a pattern that was more typically seen with a stress-related injury. He also found mild to moderate greater trochanteric bursitis of the right hip. The Board finds, however, that this evidence is insufficient to establish appellant's claim. Dr. Tobin's diagnosis of an "apparent" incomplete stress-related fracture is speculative in nature, and, thus, insufficient to establish appellant's claim.⁹ Moreover, neither Dr. Tobin nor Dr. Roth addressed how the diagnosed conditions were caused or contributed to by the accepted March 1, 2007 employment incident.

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained right hip and groin injuries causally related to the accepted March 1, 2007 employment incident. Appellant did not meet her burden of proof.

LEGAL PRECEDENT -- ISSUE 2

Under the Act, the term disability is defined as an inability, due to an employment injury, to earn the wages the employee was receiving at the time of the injury, *i.e.*, an impairment resulting in loss of wage-earning capacity.¹⁰ For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for work as a result of the accepted employment injury.¹¹ Whether a particular injury causes an employee to become disabled for

⁶ *L.R. (E.R.)*, 58 ECAB ____ (Docket No. 06-1942, issued February 20, 2007); *D.D.*, 57 ECAB 734 (2006); *Cecelia M. Corley*, 56 ECAB 662 (2005); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.3(g) (April 1993).

⁷ *Robert Broome*, 55 ECAB 493 (2004).

⁸ *Id.*

⁹ See note 6 *supra*.

¹⁰ See *Prince E. Wallace*, 52 ECAB 357 (2001).

¹¹ *Dennis J. Balogh*, 52 ECAB 232 (2001).

work and the duration of that disability are medical issues that must be proved by a preponderance of probative and reliable medical opinion evidence.¹² The fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.¹³ The Board will not require the Office to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify her disability and entitlement to compensation.¹⁴

ANALYSIS -- ISSUE 2

The Office accepted that appellant sustained a right knee sprain and tendinitis while in the performance of duty on March 1, 2007. On October 1, 2007 and January 4, 2008 appellant sought compensation for wage loss, contending that she was totally disabled from September 2, 2007 to January 4, 2008, due to the accepted conditions. On November 3, 2008 the Office found that she was not totally disabled for work during the claimed period. Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed disability and the accepted conditions.¹⁵

Dr. Adler's August 30, 2007 disability certificate stated that appellant was totally disabled for work until further notice. However, he failed to specifically address whether she sustained any disability during the claimed period causally related to her accepted March 1, 2007 employment injuries.

The Board finds that there is insufficient rationalized medical evidence to establish that appellant's total disability from the period September 2, 2007 to January 4, 2008 resulted from the residuals of her accepted employment-related right knee sprain and tendinitis. Appellant did not meet her burden of proof.

CONCLUSION

The Board finds that appellant has failed to establish that she sustained right hip and groin injuries and bursitis causally related to the March 1, 2007 employment injuries. The Board further finds that appellant has failed to establish that she was totally disabled from September 2, 2007 to January 4, 2008 due to her accepted employment-related right knee sprain and tendinitis.

¹² *Gary J. Watling*, 52 ECAB 278 (2001).

¹³ *Manuel Garcia*, 37 ECAB 767 (1986).

¹⁴ *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹⁵ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

ORDER

IT IS HEREBY ORDERED THAT the November 3, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 19, 2009
Washington, DC

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

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

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