



## **FACTUAL HISTORY**

On July 29, 2008 appellant, then a 42-year-old lead transportation security screener, filed a traumatic injury claim alleging that she sustained injuries to her left knee and ankle at noon on July 19, 2008 while getting out of a chair at work. She stated that she felt extreme pain in her left knee and ankle as she placed her left foot on the floor and was unable to place any body weight on her left leg.

Appellant provided a July 20, 2008 witness statement from Tiffany Moore, a coworker, who reported that she observed her getting out of her chair around noon on the date in question. The next thing Ms. Moore knew, appellant was doubled over in pain, stating that she had injured her knee.

Appellant submitted a July 24, 2008 report from Dr. Melanie S. Orenca, Board-certified in the field of family medicine, who treated her on July 22, 2008 for left knee and ankle pain. Dr. Orenca stated that, on July 19, 2008, while getting out of a “high-type chair,” appellant twisted her left foot, fell down and landed on her hands. Appellant experienced pain in the left ankle and left knee and was unable to put any weight on her left leg the following day. Dr. Orenca reported that appellant had a history of torn meniscus in 2005 and underwent surgery in 2006, but she had no limitation of motion until the July 19, 2008 incident. On examination, appellant walked with a limp. There was positive tenderness and swelling on the lateral aspect of the left knee joint. She had positive crepitation when pressure was applied to the left patella and mild tenderness on the left lateral malleolus area. Appellant had full range of motion of the left ankle and her peripheral pulses were full and equal. She had decreased range of motion of the left knee joint on flexion, internal and external rotation. Dr. Orenca diagnosed left knee pain and ordered an x-ray of appellant’s left knee. A July 29, 2008 follow-up report reflected appellant’s complaints of continuing left knee pain.

On August 6, 2008 Dr. Orenca stated that appellant began complaining of left knee pain on July 22, 2008, when she fell and hurt her knee while she was at work. A July 28, 2008 magnetic resonance imaging (MRI) scan showed findings consistent with iliotibial band syndrome, including a lateral meniscal tear and small medial meniscus without a tear. She indicated that appellant had a Grade 3 to 4 chondromalacia, posterolateral tibial plateau, small erosions and Grade 3 chondromalacia medial compartment. The patella showed low-grade chondromalacia, medial facet. There was positive limitation of motion of the left knee joint in certain areas and positive swelling on left side of the left knee. Appellant had minimal edema on the lateral aspect of her left knee joint; pain on palpation on the lateral aspect of the left knee joint; decreased range of motion on internal and external rotation; and flexion of the left knee joint. She was, however, able to internally and externally rotate the left knee joint to about 30 degrees on each side; flex her knee joint to about 30 degrees; and do full extension of her left knee joint. Dr. Orenca diagnosed iliotibial band syndrome and left lateral meniscal tear.

The record contains a July 22, 2008 report of a left knee x-ray and a July 28, 2008 report of an MRI scan of the left knee.

By letter dated August 21, 2008, the Office informed appellant that the information submitted was insufficient to establish her claim, noting that there was no medical evidence

establishing that her diagnosed knee condition was causally related to factors of her claimed injury. It informed her that she had 30 days to submit additional evidence to support her claim, including a history of her prior knee condition and a medical narrative explaining how the alleged July 19, 2008 incident caused or aggravated her diagnosed condition.

Appellant submitted an August 19, 2008 report from Dr. Joshua A. Johnston, a treating physician, who diagnosed left knee arthrosis and left lateral meniscus tear. Dr. Johnston stated that she had an acute onset of pain and swelling on July 19, 2008, when she sustained a twisting injury to her left knee. He noted a history of a partial meniscectomy of the left knee two years prior. On examination of the left lower extremity, appellant had some tenderness to palpation about the lateral joint line. McMurray examination was positive for lateral pain. Range of motion was from 0 to 130 degrees, with pain at the extreme of flexion. X-rays showed a moderate degree of arthrosis in the lateral compartment and mild arthrosis in the patello femoral compartment with slight valgus alignment. A report of a left knee MRI scan revealed degenerative changes in the lateral compartment, as well as a lateral meniscus tear. Dr. Johnston recommended surgery to correct the meniscal tear.

On August 31, 2008 Dr. Orenca stated that appellant had been experiencing constant pain since sustaining a left knee injury on July 19, 2008. He noted that MRI scan findings showed IT band syndrome and lateral meniscal tear, for which she was awaiting surgery. Examination revealed that appellant was able to flex her left knee joint to about 70 degrees; internally rotate her left knee joint to about 30 degrees; externally rotate the left knee joint to about 30 degrees; and fully extend the left knee joint.

By decision dated September 30, 2008, the Office denied appellant's claim, finding that the medical evidence of record failed to demonstrate that the diagnosed left knee condition was causally related to the established work-related events.

On October 14, 2008 appellant requested reconsideration of the Office's April 25, 2008 decision. She submitted an August 26, 2008 report from Dr. Orenca and September 2 and October 10, 2008 reports from Dr. Johnston, which addressed the cause and progression of appellant's left knee condition. In a September 5, 2008 statement, appellant reiterated the circumstances surrounding the July 19, 2008 incident and contended that it was the cause of her left knee condition.

By decision dated December 16, 2008, the Office denied modification of its previous decision.

On December 26, 2008 appellant submitted an appeal request form requesting reconsideration. By decision dated December 31, 2008, the Office denied her request for merit review.

On appeal, appellant seeks a reversal of the Office's decision, contending that she was unaware that she was required to provide additional medical documentation.

## LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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 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 or specific condition for which compensation is claimed, is causally related to the employment injury.<sup>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

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.

When an employee claims that he sustained a traumatic injury in the performance of duty, he must establish the "fact of injury," consisting of two components which must be considered in conjunction with one another. The first is whether the employee actually experienced the incident that is alleged to have occurred at the time, place and in the manner alleged. The second is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.<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. 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>6</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, 1145 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Deborah L. Beatty*, 54 ECAB 340 (2003). See also *Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002). The term "injury" as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). See 20 C.F.R. § 10.5(q), (ee).

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

## ANALYSIS

The Board finds that this case is not in posture for a decision as to whether appellant sustained an injury in the performance of duty.

An employee who claims benefits under the Act has the burden of establishing the essential elements of his or her claim. The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.<sup>7</sup> However, it is well established that proceedings under the Act are not compensation, the Office shares responsibility in the development of the evidence to see that justice is done.<sup>8</sup>

The Office accepted that the July 19, 2008 incident occurred as alleged. It denied appellant's claim, however, on the grounds that the evidence failed to establish a causal relationship between the established event and her diagnosed left knee condition. The Board finds that the medical evidence of record, though not fully rationalized, supports a causal relationship between the accepted July 19, 2008 incident and appellant's left knee condition.

Dr. Orenca began treating appellant three days after the accepted incident. She provided a factual account of the incident, which reflected that appellant twisted her left foot on July 19, 2008, while getting out of a "high-type chair." Dr. Orenca exhibited an awareness of appellant's prior medical history, which involved a partial meniscectomy of the left knee in 2006, but noted that appellant had no limitation of motion in her knee until the July 19, 2008 incident. She provided detailed examination findings, diagnosed left knee pain and ordered an x-ray of her left knee. On August 6, 2008 Dr. Orenca stated that appellant began complaining of left knee pain on July 22, 2008, following her work-related knee injury. She reviewed MRI scan results, which showed findings consistent with iliotibial band syndrome, including a lateral meniscal tear and small medial meniscus without a tear and provided examination findings, on which she based her diagnoses of iliotibial band syndrome and left lateral meniscal tear. On August 31, 2008 Dr. Orenca reiterated her previous diagnoses, stating that appellant had been experiencing constant pain since sustaining a left knee injury on July 19, 2008. Her reports provide detailed examination findings, which support a definitive diagnosis and are factually consistent with appellant's allegation that she injured her left knee on July 19, 2008.

On August 19, 2008 Dr. Johnston stated that appellant had an acute onset of pain and swelling on July 19, 2008, when she sustained a twisting injury to her left knee. He provided examination findings, reviewed appellant's medical history and reports of MRI scans and x-rays and diagnosed left knee arthrosis and left lateral meniscus tear. Although Dr. Johnston's report

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<sup>7</sup> See *Virginia Richard, claiming as executrix of the estate of Lionel F. Richard*, 53 ECAB 430 (2002); see also *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

<sup>8</sup> *Phillip L. Barnes*, 55 ECAB 426 (2004); see also *Virginia Richard*, *supra* note 7; *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1993).

does not contain an opinion as to the cause of appellant's current knee condition, it is compatible with Dr. Orenca's reports and supports appellant's claim that she injured her knee on July 19, 2008.

The Board notes that, while none of the reports of appellant's attending physicians is completely rationalized, they are consistent in indicating that she sustained an employment-related knee injury. Moreover, these reports are not contradicted by any substantial medical or factual evidence of record. While the reports are not sufficient to meet appellant's burden of proof to establish her claim, they raise an uncontroverted inference that her current knee condition was caused or aggravated by the established work incident and are sufficient to require the Office to further develop the medical evidence and the case record.<sup>9</sup> On remand, the Office should submit a statement of accepted facts to a qualified physician, in order to obtain a rationalized opinion as to whether her current condition is causally related to the established July 19, 2008 incident, either directly or through aggravation, precipitation or acceleration.

### **CONCLUSION**

The Board finds that this case is not in posture for decision as to whether or not appellant sustained an injury in the performance of duty.

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<sup>9</sup> See *Virginia Richard*, *supra* note 7; see also *Jimmy A. Hammons*, 51 ECAB 219 (1999); *John J. Carlone*, 41 ECAB 354 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 30, 2008 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development consistent with this decision.<sup>10</sup>

Issued: April 20, 2010  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>10</sup> In light of the Board's ruling on the first issue, the second issue is moot.