United States Department of Labor
Employees' Compensation Appeals Board

K.J., Appellant	)	
and	)	**Docket No. 10-1354**
	)	**Issued: February 15, 2011**
U.S. POSTAL SERVICE, POST OFFICE, New York, NY, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 12, 2010 appellant filed a timely appeal of a March 19, 2010 merit decision of the Office of Workers' Compensation Programs which denied his traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[1]

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a left knee condition causally related to a January 29, 2010 employment incident.

[1] For Office decisions issued prior to November 19, 2008, a claimant had up to one year to file an appeal. An appeal of Office decisions issued on or after November 19, 2008 must be filed within 180 days of the decision. 20 C.F.R. § 501.3(e).

FACTUAL HISTORY

On February 1, 2010 appellant, then a 55-year-old letter carrier, filed a traumatic injury claim alleging that on January 29, 2010 he slipped down steps while delivering mail and hit his knee, resulting in a left knee contusion and bruise. He stopped work on January 30, 2010.

A January 30, 2010 emergency room discharge report from Long Island College Hospital signed by Dr. Michael Tang, Board certified in emergency medicine, noted that appellant was treated and given ibuprofen and oxycodone at the emergency room. Dr. Tang diagnosed appellant with a contusion of the left knee.

A January 30, 2010 work restriction note from Meleta Taylor, a nurse practitioner, stated that appellant was out of work and needed crutches. In a February 1, 2010 work restriction note, with an illegible signature, appellant was treated at the Orthopedic Ambulatory Care Service and recommended not to return to work until further notice.

In a February 1, 2010 letter, the employing establishment controverted appellant's claim. It was noted that he did not notify his supervisor of the accident and that he completed his work on January 29, 2010 without apparent distress.

On February 16, 2010 the Office advised appellant of the deficiencies in his claim and requested additional information. It asked him to explain why he did not immediately report his alleged injury to his supervisor on January 29, 2010 or when he called to report he was unable to work on January 30, 2010. The Office also requested a detailed medical report from a physician which included a history of injury and any prior injuries to similar parts of the body, a firm diagnosis of any condition resulting from the alleged injury and an opinion explaining how the reported work incident caused or aggravated the claimed injury.

On February 24, 2010 the Office received magnetic resonance imaging (MRI) scan diagnostic results of the left knee dated February 17, 2010 from Dr. Enyi Okoh, a Board-certified internist, who reported the clinical data as "Pain. Twisting Injury." Dr. Okoh stated that the MRI scan revealed an undisplaced fracture involving the posterior aspect of the lateral tibial plateau with synovial effusion and a small popliteal cyst. There was no internal derangement, the medial and lateral menisci were intact and no abnormalities were identified in the posterior ligaments.

Appellant submitted medical records from Preferred Health Partners, dated February 16 to March 3, 2010. Dr. Satish Kashyap, a Board-certified orthopedic surgeon, noted the reason for the referral as: "job[-]related left knee injury, fracture posterior aspect of the lateral tibial plateau." On March 3, 2010 he confirmed that appellant was under his medical care and diagnosed a closed fracture of the upper end of tibia. Dr. Kashyap advised that appellant could not return to work and was disabled until further notice. Appellant would be reevaluated on March 29, 2010.

In a letter dated March 3, 2010, appellant stated that he was delivering mail when he slipped while walking down the steps of a building and hit his left knee. He did not immediately notify his supervisor of the incident and continued with his assignment because he did not feel

any pain; but later that evening he experienced pain and was taken by ambulance to Long Island College Hospital.

In a March 3, 2010 worksheet, a continuation of pay nurse contacted the employing establishment and reported that appellant was not working because of a fracture of his tibial plateau, as confirmed by MRI scan results. She reported that he slipped on steps while delivering mail and caught himself from falling, but his knee became swollen.

In a March 19, 2010 decision, the Office denied appellant's claim. It accepted that the January 29, 2010 employment incident occurred as alleged; however, the medical evidence did not provide an accurate history that appellant slipped down steps and hit his left knee or any explanation of how his knee fracture was causally related to the employment incident.

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 evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[3]

An employee seeking benefits under the Federal Employees' Compensation Act[4] has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative and substantial evidence[5] including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.[6] As part of his burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background on whether a causal relationship exists between the claimant's diagnosed condition and the established employment incident.[7] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.[8]

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

[3] *T.H.*, 59 ECAB 388 (2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

[4] 5 U.S.C. §§ 8101-8193.

[5] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

[6] *M.M.*, 60 ECAB __ (Docket No. 08-1510, issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[7] *Y.J.*, 60 ECAB __ (Docket No. 08-1167, issued October 7, 2008); *George H. Clark*, 56 ECAB 162 (2004); *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

[8] *C.B.*, 60 ECAB __ (Docket No. 08-1583, issued December 9, 2008); *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the specified employment factors or incident. 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 employee.[9]

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that an employee's condition surfaced during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.[10]

ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a left knee fracture causally related to the January 29, 2010 employment incident. The Office accepted that the January 29, 2010 slip and fall incident occurred as alleged. The Board finds, however, that the medical evidence of record is insufficient to establish that the January 29, 2010 employment incident resulted in a left knee condition.

The medical evidence submitted is not sufficient to establish appellant's claim for a left knee injury because the medical reports do not provide an accurate history of the employment incident or a rationalized medical opinion addressing how the accepted incident caused or contributed to his left knee conditions.

Dr. Tang noted only a diagnosis of "contusion." His treatment note on January 30, 2010 does not relate any history of injury or the explanation as to the medical cause of appellant's left knee condition.

In a February 17, 2010 MRI scan diagnostic report, Dr. Okoh listed a diagnosis of undisplaced fracture of the lateral tibial plateau and listed "Pain Twisting Injury." Appellant, however, did not describe a twisting injury as the cause of his left knee condition. Rather, he stated that he slipped and fell on steps on January 29, 2010 while delivering mail. This report provided no medical rationale explaining how the accepted incident caused the diagnosed condition.

The February 16, 2010 referral form from Dr. Kashyap noted that appellant was seen for "trauma, job[-]related left knee injury." Dr. Kashyap failed to provide any history of the January 29, 2010 slip and fall incident or medical rationale addressing the issue of causal

[9] *D.S.*, 61 ECAB __ (Docket No. 09-860, issued November 2, 2009); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[10] *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

relationship. A physician's opinion not supported by medical rationale is of diminished probative value.[11] The Board finds that Dr. Kashyap's opinion is of diminished probative value because he did not provide sufficient medical rationale explaining how the incident accepted in this case caused the left knee condition.

The other medical evidence of record such as the work restriction forms dated January 30 and March 3, 2010, March 1 and 8, 2010 appointment slips and the January 30, 2010 emergency room discharge report did not provide any opinion regarding the cause of appellant's condition. This evidence is of limited probative value on the issue of causal relationship.[12]

In a March 3, 2010 worksheet, a nurse reported that appellant slipped on steps while delivering mail and caught himself, but his knee became swollen. This report is of no probative value as a nurse is not a physician as defined under the Act. 5 U.S.C. § 8101(2) of the Act provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law.[13]

To establish causal relationship, a claimant must submit a physician's rationalized medical opinion based on a complete factual and medical background with an accurate history of the employee's employment injury and must explain from a medical perspective how the current condition is related to the injury.[14] The medical opinion must relate a work incident or factors of employment to an employee's condition, with stated reasons for the conclusions reached.[15] In this case, the medical reports are not based on an accurate history of injury and do not provide adequate medical opinion to establish causal relationship.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that a knee condition was causally related to the January 29, 2010 employment incident.

[11] *F.T.*, 61 ECAB __ (Docket No. 09-919, issued December 7, 2009); *T.M.*, 60 ECAB __ (Docket No. 08-975, issued February 6, 2009).

[12] *J.F.*, 61 ECAB ___ (Docket No. 09-1061, issued November 17, 2009); *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009); *see Mary E. Marshall*, 56 ECAB 420 (2005).

[13] *See Roy L. Humphrey*, 57 ECAB 238 (2005).

[14] *K.E.*, 60 ECAB __ (Docket No. 08-1461, issued December 17, 2008); *T.H.*, *supra* note 3; *Gary J. Watling*, 52 ECAB 278 (2001).

[15] *J.J.*, 60 ECAB __ (Docket No. 09-27, issued February 10, 2009).

ORDER

IT IS HEREBY ORDERED THAT the March 19, 2010 decision of the Office of Workers' Compensation Program is affirmed.

Issued: February 15, 2011
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