

L.H., Appellant

**U.S. POSTAL SERVICE, POST OFFICE,
Marti, UT, Employer**

Case Submitted on the Record

Before:

JURISDICTION

ISSUE

FACTUAL HISTORY

¹ 5 U.S.C. § 8101 *et seq.*

Dr. Darrel Olsen, a Board-certified family medicine specialist, examined appellant on December 14, 2011. He obtained a history of falling and landing on her tailbone. Dr. Olsen stated that appellant developed knee pain and swelling two days after her fall. He found no discoloration or swelling of the knee, good range of motion and some tenderness over the lateral ligaments. Dr. Olsen diagnosed a knee injury, question of meniscal tear. Appellant submitted a knee x-ray which was read as normal. On December 21, 2011 she underwent a left knee magnetic resonance imaging (MRI) scan which was suggestive of mild-to-moderate chondromalacia patella involving the lateral articular surface of the patella.

In a letter dated January 7, 2013, OWCP requested additional medical evidence from appellant. Specifically, for a physician's opinion as to how her injury resulted in a diagnosed condition. OWCP allowed 30 days for a response. The requested evidence was not submitted within the allotted time.

By decision dated February 12, 2013, OWCP denied appellant's claim finding that she did not establish that she twisted her knee or sustain a coccyx fracture on December 3, 2011. It found that she did not submit sufficient medical evidence to meet her burden of proof.²

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA and that the claim was timely filed within the applicable time limitation period of FECA, 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.⁴ 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.⁵

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."⁶ To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. The employee must also submit sufficient evidence to establish that he or she actually experienced the employment

² Following OWCP's February 12, 2013 decision, appellant submitted new evidence. As OWCP did not consider this evidence in reaching a final decision, the Board may not consider the evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

³ 5 U.S.C. §§ 8101-8193.

⁴ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ 20 C.F.R. § 10.5(ee).

incident at the time, place and in the manner alleged.⁷ Second, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.⁸

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁹ Medical rationale includes a physician's detailed opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.¹⁰

ANALYSIS

Appellant alleged that on December 3, 2011 she fell in the performance of duty injuring her coccyx and left knee. OWCP has accepted that the fall occurred in the performance of appellant's job duties. The Board finds that she has not submitted sufficient medical evidence to establish that she sustained an injury as a result of her employment incident. Appellant must submit probative medical evidence on the issue of causal relationship between a diagnosed condition and the employment incident. She must submit rationalized medical evidence in support of her claim.¹¹

Appellant submitted two diagnostic tests, an MRI scan and x-rays. She also submitted a note from Dr. Olsen which included the diagnosis of a questionable meniscal tear. Dr. Olsen did not review the MRI scan and did not provide a clear opinion that appellant's accepted fall resulted a firm medical diagnosis, such as a meniscal tear of the left knee. Without a clear medical opinion that appellant's employment incident resulted in a diagnosed medical condition, the evidence is not sufficient to meet her burden of proof to establish a traumatic injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *J.Z.*, 58 ECAB 529 (2007).

⁹ *T.F.*, 58 ECAB 128 (2006).

¹⁰ *A.D.*, 58 ECAB 149 (2006).

¹¹ *G.G.*, 58 ECAB 389 (2007).

CONCLUSION

The Board finds that appellant did not submit the necessary medical opinion evidence to meet her burden of proof in establishing a traumatic injury claim for knee strain or coccyx fracture.

ORDER

IT IS HEREBY ORDERED THAT the February 12, 2013 Office of Workers' Compensation Programs' decision is affirmed.

Issued: July 11, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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