



## **FACTUAL HISTORY**

On October 29, 2012 appellant, then a 62-year-old sales associate, filed a traumatic injury claim (Form CA-1) alleging that she injured her left knee and right leg on October 26, 2012 in the performance of duty as a result of falling to the ground while getting out of a chair.

In an October 26, 2012 report, Dr. Ira B. Husky, a Board-certified emergency medicine physician, diagnosed syncope and collapse, hypopotassemia, urinary tract infection and right knee sprain. He noted that appellant did not remember the syncopal episode.

On October 26, 2012 Dr. Jonathan C. Royalty, a Board-certified internist, diagnosed right knee pain, hypokalemia, chronic paroxysmal supraventricular tachycardia, syncope and chronic unspecified essential hypertension.

Appellant also submitted physical therapy notes dated October 29, 2012.

In a November 14, 2012 letter, OWCP notified appellant of the deficiencies of her claim. It afforded her 30 days for the submission of additional evidence.

Appellant submitted a November 29, 2012 narrative statement and a limited-duty job offer from the employing establishment. She also submitted a November 15, 2012 report from Dr. Frank R. Noyes, a Board-certified orthopedic surgeon, who diagnosed a right knee anterior cruciate ligament tear, as well as medial and lateral meniscal tears. Dr. Noyes listed a history that appellant fell on October 26, 2012 and experienced severe pain in her right knee. He reported that appellant had a prior knee arthroscopy on her right knee in March 2010 for a torn meniscus. Appellant also had a torn ligament in 1990, although she did not know which one.

By decision dated December 18, 2012, OWCP denied appellant's claim. It found that medical evidence was insufficient to establish a causal relationship between her knee or leg conditions and the October 26, 2012 employment incident.

On December 20, 2012 appellant, through her attorney, requested an oral hearing before an OWCP hearing representative by telephone. She submitted a narrative statement and a limited-duty job offer from the employing establishment dated December 13, 2012.<sup>2</sup> In a December 27, 2012 report, Dr. Noyes opined that appellant sustained an injury to her right knee with a disruption of the anterior cruciate ligament. He noted that "the history of a degenerative tear of the medial meniscus of the right knee [was] mostly likely related to a prior condition."

A telephonic hearing was held with an OWCP hearing representative on March 13, 2013. Appellant provided testimony and the hearing representative held the case record open for 30 days for the submission of additional evidence.

---

<sup>2</sup> On December 17, 2012 appellant, through her attorney, filed a claim for leave without pay for the period December 13 to 14, 2012.

Appellant submitted an October 28, 2012 magnetic resonance imaging (MRI) scan of the right knee. The MRI scan revealed a medial and lateral meniscus tear, postoperative changes of the lateral meniscus, an anterior cruciate ligament (ACL) tear and a large Baker's cyst.

By decision dated May 20, 2013, OWCP's hearing representative affirmed the December 18, 2012 decision. She found that the medical evidence did not adequately explain causal relationship.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury<sup>4</sup> was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup>

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. A fact of injury determination is based on two elements. 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. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury. An employee may establish that the employment incident occurred as alleged but fail to show that his or her condition relates to the employment incident.<sup>6</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.<sup>7</sup>

---

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> OWCP regulations define 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. 20 C.F.R. § 10.5(ee).

<sup>5</sup> See *T.H.*, 59 ECAB 388 (2008). See also *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *Id.* See *Shirley A. Temple*, 48 ECAB 404 (1997); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *Id.* See *Gary J. Watling*, 52 ECAB 278 (2001).

## ANALYSIS

OWCP accepted that the employment incident of October 26, 2012 occurred at the time, place and in the manner alleged. The issue is whether appellant's right knee condition resulted from the October 26, 2012 employment incident. The Board finds that appellant did not meet her burden of proof to establish a causal relationship between the knee condition for which compensation is claimed and the employment incident.

Dr. Noyes diagnosed right knee ACL tear, as well as medial and lateral meniscal tears. He indicated that appellant fell on October 26, 2012 and experienced severe pain in her right knee. Dr. Noyes also reported that she had a prior knee arthroscopy on her right knee in March 2010 for a torn meniscus. Appellant also had a torn ligament in 1990, although she did not know which one. On December 27, 2012 Dr. Noyes opined that appellant sustained an injury to her right knee with a disruption of the ACL and that "the history of a degenerative tear of the medial meniscus of the right knee [was] mostly likely related to a prior condition." He did not provide adequate medical rationale explaining how appellant's right knee condition was caused or aggravated by falling on the ground while getting out of a chair on October 26, 2012. Dr. Noyes noted only that appellant's condition occurred after falling at work. However, such generalized statements do not establish causal relationship because they merely repeat the employee's allegations and are unsupported by adequate medical rationale explaining how this physical activity actually caused the diagnosed conditions.<sup>8</sup> Lacking thorough medical rationale on the issue of causal relationship, Dr. Noyes' reports are of limited probative value and insufficient to establish that appellant sustained an employment-related injury in the performance of duty on October 26, 2012.

On October 26, 2012 Dr. Husky diagnosed syncope and collapse, hypopotassemia, urinary tract infection and right knee sprain; he also noted that appellant did not remember the syncopal episode. On October 26, 2012 Dr. Royalty diagnosed right knee pain, hypokalemia, chronic paroxysmal supraventricular tachycardia, syncope and chronic unspecified essential hypertension. Neither physician addressed causal relationship. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>9</sup> Drs. Husky and Royalty failed to address the issue of causal relationship between the October 26, 2012 employment incident and the diagnosed conditions. Therefore, the Board finds that appellant did not meet her burden of proof with these submissions.

The physical therapy notes dated October 29, 2012 do not constitute medical evidence as they were not prepared by a physician.<sup>10</sup> As such, the Board finds that appellant did not meet her burden of proof with this submission.

---

<sup>8</sup> See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

<sup>9</sup> See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>10</sup> Physical therapists are not physicians under FECA. See 5 U.S.C. § 8101(2).

The October 28, 2012 MRI scan is diagnostic in nature and therefore does not address causal relationship. As such, the Board finds that it is insufficient to establish appellant's claim.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the October 26, 2012 employment incident, she has failed to meet her burden of proof to establish a claim.

On appeal, counsel contends that OWCP's decision was contrary to fact and law. For the reasons stated above, the Board finds the attorney's arguments are not substantiated.

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.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that her right knee condition was causally related to an October 26, 2012 employment incident, as alleged.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the May 20, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 21, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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