

**United States Department of Labor
Employees' Compensation Appeals Board**

C.S., Appellant)

and)

DEPARTMENT OF THE AIR FORCE,)
AIR FORCE NATIONAL GUARD,)
Fort Dix, NJ, Employer)

**Docket No. 14-2065
Issued: February 11, 2015**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On September 29, 2014 appellant filed a timely appeal from the September 5, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² Appellant argues that he did send in the necessary paperwork, but he was not able to do so in a timely manner because the doctor's office did not give him the information when he needed it. The Board is not able to consider on this appeal any of the medical evidence received by OWCP after the September 5, 2014 decision. The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

ISSUE

The issue is whether the July 8, 2014 work incident caused or aggravated a specific medical condition.

FACTUAL HISTORY

On July 10, 2014 appellant, a 29-year-old aircraft fuel systems mechanic, filed a traumatic injury claim alleging an injury in the performance of duty on July 8, 2014 when he slipped on residual fuel and twisted his left knee.

Appellant saw an advanced practical nurse on July 24, 2014. He reported his history and symptoms. On examination, moderate pain with motion was noted in the left knee. Appellant was diagnosed with “knee injury.” He was given medication and referred to an orthopedic surgeon for evaluation and treatment. Dr. Paul Lanza, an osteopath Board-certified in family medicine, countersigned the report on August 6, 2014.

An imaging study two days later showed a low-grade partial tear of the medial patellar tendon at the patellar attachment measuring four millimeters in width.

In a decision dated September 5, 2014, OWCP denied appellant’s traumatic injury claim finding that the evidence was sufficient to establish the incident of July 8, 2014 as described; however, it found the medical evidence provided no physician’s reasoned opinion on how the incident caused or aggravated a diagnosed medical condition.

Appellant argues that he sent in the necessary paperwork but not in a timely manner. He explains that he was unable to obtain the information he needed from his physician.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.³ An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place, and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.⁴

Causal relationship is a medical issue,⁵ 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 claimant,⁶ must be

³ 5 U.S.C. § 8102(a).

⁴ *John J. Carlone*, 41 ECAB 354 (1989).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

one of reasonable medical certainty,⁷ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁸

ANALYSIS

OWCP accepted that the July 8, 2014 work incident occurred as alleged. The question that remains is whether this incident caused or aggravated a diagnosed medical condition.

The July 24, 2014 report countersigned by Dr. Paul Lanza assessed a “knee injury.” It did not identify a specific medical condition.

The imaging study obtained two days later identified a low-grade partial tear of the medial patellar tendon. This evidence does not establish that the July 8, 2014 work incident caused the tear. Causal relationship requires a physician to discuss in some detail what happened at work and to explain, from a medical point of view, how the incident caused or aggravated the diagnosed medical condition.

Appellant did not submit a physician’s rationalized opinion on the issue of causal relationship. Accordingly, the Board finds that he has not met his burden of proof to establish an injury in the performance of duty. The Board will affirm OWCP’s September 5, 2014 decision to deny his traumatic injury claim.

Appellant may submit additional evidence, 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 the medical evidence is insufficient to establish that the July 8, 2014 work incident caused or aggravated a specific medical condition.

⁷ *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ *See William E. Enright*, 31 ECAB 426, 430 (1980).

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 11, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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