



## **FACTUAL HISTORY**

On July 15, 2014 appellant, then a 49-year-old benefit authorizer, filed a traumatic injury claim (Form CA-1) alleging that on July 10, 2014 when she was walking to the elevator, her right leg gave out, causing her to stumble as she tried to catch her balance and her right knee popped. She notified her supervisor and stopped work on the date of injury.<sup>2</sup> Appellant's supervisor noted on the claim form that the alleged injury occurred in the performance of duty.

In a July 18, 2014 notification of absence due to illness, Dr. Suresh Patel, a treating physician, diagnosed right knee pain. Appellant was restricted from working beginning July 10, 2014 and referred to orthopedics.

The employing establishment issued appellant a properly completed Form CA-16, authorization for examination, dated August 5, 2014, which indicated that appellant was authorized to seek medical treatment related to the alleged July 10, 2014 injury. The description of injury was reported as walking to the elevator when appellant's right leg gave out, causing her to stumble. While trying to catch her balance, she felt her right knee pop and was unable to walk due to pain and swelling of the right knee. On the reverse side of the Form CA-16, Dr. Gregory M. Lieberman, a Board-certified orthopedic surgeon, filled out the attending physician's report and described the July 10, 2014 incident as reported by appellant. He noted no history of a preexisting condition and diagnosed right tibial plateau, right knee effusion, and right knee internal derangement. Dr. Lieberman checked the box marked "Yes" when asked if the condition was caused or aggravated by the employment activity described. The form was dated July 23, 2014, the date of his initial examination. Dr. Lieberman restricted appellant from returning to work due to total disability from July 11, 2014 to present.

In July 23 and August 6, 2014 medical notes, Dr. Lieberman diagnosed tibial plateau fracture having occurred on July 10, 2014. He restricted appellant from returning to work.

By letter dated August 15, 2014, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was provided with a questionnaire for completion, advised of the medical and factual evidence needed, and was afforded 30 days to submit the requested evidence.

In further support of her claim, appellant submitted medical reports dated July 23 through August 27, 2014 from Dr. Lieberman. Dr. Lieberman reported that on July 10, 2014 appellant was at work when her knee buckled. She felt something pop as she almost fell. Dr. Lieberman noted that appellant had not returned to work since the date of injury and reported no prior history of a right knee condition. Physical examination findings revealed moderate right knee effusion and tender medial and lateral joint line at palpation of the knee. Dr. Lieberman explained that the injury was a sprain/strain as review of a right knee x-ray revealed lateral tibial plateau fracture. He opined that the incident described by appellant was the cause of injury as

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<sup>2</sup> The Board notes that appellant has prior traumatic injury claims with the following dates of injury and case numbers: August 29, 2001 in Claim No. xxxxxx714; August 5, 2002 in Claim No. xxxxxx192; June 30, 2005 in Claim No. xxxxxx078; November 6, 2008 in Claim No. xxxxxx972; and September 24, 2010 in Claim No. xxxxxx023. The record before the Board contains no other information regarding appellant's prior claims.

her complaints and medical history were consistent with the injury and objective findings. Dr. Lieberman concluded by diagnosing tibial plateau fracture, right knee joint effusion, and internal derangement of right knee joint. Appellant was restricted from returning to work.

In a September 5, 2014 duty status report (Form CA-17) and attending physician's report (Form CA-20), Dr. Lieberman diagnosed tibial plateau fracture, right knee joint effusion, and internal derangement of right knee joint. He restricted appellant from returning to work explaining that she was totally disabled. On the Form CA-20, Dr. Lieberman checked the box marked "Yes" when asked if the condition was caused or aggravated by the employment activity described.

By decision dated September 17, 2014, OWCP denied appellant's claim finding that the evidence of record failed to establish that the July 10, 2014 employment incident had occurred at the time, place, and in the manner alleged. It noted that appellant had not responded to the questionnaire that was sent with the August 15, 2014 development letter. OWCP found that the evidence of record failed to establish a firm medical diagnosis which could be reasonably attributed to the alleged July 10, 2014 employment incident. It explained that appellant was currently seeking a schedule award for a permanent impairment of the right leg in a previous OWCP case, yet her physician had denied any prior injuries to the right leg.<sup>3</sup> This omission cast doubt on the cause of injury.

On October 16, 2014 appellant, through counsel, requested an oral hearing before a hearing representative of OWCP's Branch of Hearings and Review.

In an October 8, 2014 narrative statement, appellant reported that on July 10, 2014 she was at work and assisted a coworker in changing the water cooler at 8:15 a.m. At 8:30 a.m. her manager approved her request to go to the cafeteria. Appellant was walking to the elevator and as she arrived near the elevator bank, noticed her right leg was not in position for her next step. It felt like her right leg gave out and she found herself trying to prevent a fall which caused her body to turn in one direction and her right leg in another. Appellant heard the knee pop and grabbed the wall to stand up straight. She was in a great deal of pain and her manager assisted her to the health unit where she was informed to seek immediate medical treatment. Appellant explained that she first sought treatment with Dr. Patel on the date of injury who informed her she was totally disabled and referred her to a knee specialist. Upon seeking treatment with Dr. Lieberman, appellant was notified that she suffered a right knee fracture. She noted a prior back injury in Claim No. xxxxxx972 and recurrence of that back injury in claim No. xxxxxx023.

Appellant submitted medical reports and work restriction notes dated September 9, 2014 to January 7, 2015 from Dr. Lieberman. In an October 22, 2014 report, Dr. Lieberman diagnosed right knee tibial plateau fracture, right knee joint effusion, and internal derangement of right knee joint. He also provided the additional diagnosis of osteoarthritis of knee. Dr. Lieberman explained that appellant completed physical therapy, but continued to complain of pain, noting that she could be released to work limited duty beginning October 27, 2014. In a January 7, 2015 report, he released appellant to full duty beginning on January 12, 2015.

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<sup>3</sup> The record reveals no other information pertaining to this schedule award claim.

A hearing was held on January 27, 2015. At the hearing, appellant described the circumstances surrounding her injury. She explained that her position as benefit authorizer entailed a sit down desk job where she would review documents on the computer and use a telephone in an office setting with no lifting or carrying duties. Appellant described the circumstances of her injury as noted in her narrative statement. She testified that she was working on cases when she told her supervisor that she wanted to get something from the cafeteria. Appellant's supervisor approved, and appellant proceeded to the elevators. When she stepped on her right leg, her knee buckled. Counsel argued that appellant's description of the employment incident established fact of injury and Dr. Lieberman's reports established causal relationship.

By decision dated March 15, 2015, OWCP's hearing representative affirmed the September 17, 2014 decision, finding that the evidence of record failed to establish that appellant sustained an injury causally related to the alleged July 10, 2014 employment incident. The decision noted that appellant was not performing any assigned work duty when her knee buckled, and there was no evidence to support that any hazard of employment contributed to the injury. The hearing representative further explained that the mere fact that appellant's knee buckled while at work, alone, was insufficient to establish that a compensable injury occurred. He also found that appellant had not submitted sufficient medical evidence to establish causal relationship between factors of her federal employment and her knee condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>5</sup>

It is a general rule of workers' compensation law that, as to employees having fixed hours and place of work, injuries occurring on the premises of the employing establishment, while the employees are going to or from work, before or after working hours, or at lunch time, are compensable.<sup>6</sup> OWCP's procedures provide that injuries arising on the premises may be approved if the employee was performing assigned duties, or was engaged in activity reasonably incidental to the employment, such as: (a) personal acts for the employee's comfort, convenience and relaxation; (b) eating meals and snacks on the premises; or (c) taking authorized coffee breaks.<sup>7</sup>

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<sup>4</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>5</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>6</sup> *T.L.*, Docket No. 07-1692 (issued June 2, 2008).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.4(a) (August 1992).

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.<sup>8</sup> Once an employee establishes that he or she sustained an injury in the performance of duty, he or she has the burden of proof to establish that any subsequent medical condition or disability for work, for which he or she claims compensation is causally related to the accepted injury.<sup>9</sup>

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of employment -- is not within coverage of FECA.<sup>10</sup> Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. The Board has made it equally clear that the fact that the cause of a particular fall cannot be explained alone does not establish an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to such general rule.<sup>11</sup> If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted and caused the fall.<sup>12</sup>

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence supporting such a causal relationship.<sup>13</sup> 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the

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<sup>8</sup> See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. § 10.5(q) and (ee) (1999) (occupational disease or illness and traumatic injury defined). See *Victor J. Woodhams*, 41 ECAB 345 (1989) regarding a claimant's burden of proof in an occupational disease claim.

<sup>9</sup> *Supra* note 4.

<sup>10</sup> See *Carol A. Lyles*, 57 ECAB 265 (2005).

<sup>11</sup> *Dora J. Ward*, 43 ECAB 767, 769 (1992); *Fay Leiter*, 35 ECAB 176, 182 (1983).

<sup>12</sup> *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988); *Martha G. List*, 26 ECAB 200 (1974).

<sup>13</sup> See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.<sup>14</sup>

### ANALYSIS

The Board finds that appellant failed to establish that she sustained a right knee injury in the performance of duty on July 10, 2014.

Appellant must establish all of the elements of her claim in order to prevail. She must prove her employment, the time, place, and manner of injury, a resulting personal injury, and that her injury arose in the performance of duty. The Board finds that the evidence of record is sufficient to establish that the July 10, 2014 employment incident occurred, as alleged, in the performance of duty.

On her July 15, 2014 Form CA-1, appellant explained that she sustained a right knee injury when she was walking to the elevator and her right leg gave out, causing her to stumble. As she tried to catch her balance her right knee popped. Appellant's October 8, 2014 narrative statement and testimony at the February 24, 2015 hearing described the July 10, 2014 employment incident in greater detail. She explained that she was walking to the elevator and as she arrived near the elevator banks, noticed her right leg was not in position for her next step. Appellant felt like her right leg gave out and found herself trying to prevent a fall, which caused her body to turn in one direction and her right leg in another. In its March 15, 2015 decision, OWCP found that appellant did not establish that the July 10, 2014 employment incident occurred as alleged. The Board finds, however, that her statements have sufficiently established that the July 10, 2014 employment incident occurred. Appellant provided one consistent account of the mechanism of injury and notified her supervisor on that same date. The Board has held that a claimant's statement that an injury occurred at a given time, place, and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>15</sup>

While OWCP also found that the alleged injury did not occur in the performance of duty because appellant's work duties did not require that she walk, the Board finds that appellant has established that the alleged incident did occur in the performance of duty. It is undisputed that the incident occurred on employing establishment premises. Appellant's supervisor had approved appellant's request to go to the cafeteria at 8:30 a.m. Appellant was walking to the elevator, on her way to the cafeteria, when the incident occurred. As previously noted, on premises injuries which occur when the employee is engaged in activity reasonably incidental to the employment, such as: (a) personal acts for the employee's comfort, convenience and relaxation; (b) eating meals and snacks on the premises; or (c) taking authorized coffee breaks are compensable.<sup>16</sup>

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<sup>14</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>15</sup> *Thelma Rogers*, 42 ECAB 866, 869-70 (1991).

<sup>16</sup> *Supra* note 6.

The Board further notes that injuries resulting from an idiopathic condition are not compensable, the fact that the cause of a particular fall cannot be ascertained, or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition. If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely proved that a physical condition preexisted the fall and caused the fall.<sup>17</sup>

Appellant explained that her right leg gave out and she felt her knee pop as she kept from falling. The medical evidence of record does not establish that her fall was idiopathic.<sup>18</sup> Furthermore, appellant's treating physicians noted no prior right knee injury.<sup>19</sup> While there is evidence of a prior right leg and back injury for which appellant had filed previous traumatic injury claims, there is no medical evidence to establish that any preexisting condition caused her fall. OWCP has the burden of proof to submit medical evidence showing the existence of a personal, nonoccupational pathology if it chooses to make a finding that a given fall is idiopathic in nature. The fact that the cause of a particular fall cannot be determined does not establish that it was due to an idiopathic condition. While the evidence is unclear why appellant fell, it does not establish that her fall was a result of an idiopathic condition.<sup>20</sup>

As appellant has established a July 10, 2014 employment incident, in the performance of duty, the question becomes whether she sustained an injury due to this incident. The Board finds that appellant did not submit sufficient medical evidence to support an injury causally related to the July 10, 2014 employment incident.

The reports of Dr. Lieberman dated July 23, 2014 to January 7, 2015 fail to establish appellant's traumatic injury claim. Dr. Lieberman diagnosed right knee tibial plateau fracture, right knee joint effusion, and internal derangement of right knee joint. He opined that the incident as described by appellant was the cause of injury as her complaints and medical history were consistent with the injury and objective findings. Dr. Lieberman's opinion on causal relationship did not adequately explain how the July 10, 2014 employment incident would cause or aggravate her right knee tibial plateau fracture, right knee joint effusion, and internal derangement of right knee joint. His statement on causation fails to provide a sufficient explanation as to the mechanism of injury pertaining to this traumatic injury claim, namely, how walking to the elevator caused her leg to give out resulting in an injury.<sup>21</sup> While Dr. Lieberman indicated by an affirmative check mark that the diagnosed condition was caused by the alleged employment injury, the Board has held that when a physician's opinion on causal relationship consists only of checking a box marked "Yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.<sup>22</sup> Medical reports without

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<sup>17</sup> *P.W.*, Docket No. 13-170 (issued March 15, 2013).

<sup>18</sup> *R.D.*, Docket No. 13-1854 (issued December 23, 2013).

<sup>19</sup> *G.B.*, Docket No. 10-2155 (issued June 1, 2011).

<sup>20</sup> *H.B.*, Docket No. 12-840 (issued November 20, 2012).

<sup>21</sup> *S.W.*, Docket 08-2538 (issued May 21, 2009).

<sup>22</sup> *See T.C.*, Docket No. 15-1534 (issued March 1, 2016).

adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.<sup>23</sup> The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record, and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.<sup>24</sup> Without explaining how physiologically the movements involved in the employment incident caused or contributed to the diagnosed condition, Dr. Lieberman's opinion on causal relationship is equivocal in nature and of limited probative value.<sup>25</sup>

The Board notes that in reports beginning October 22, 2014, Dr. Lieberman provided an additional diagnosis of osteoarthritis of knee. Without further discussion of appellant's right knee osteoarthritis, it is unclear if her injury was caused by the July 10, 2014 employment incident, a result of a preexisting condition, or due to degenerative changes. Dr. Lieberman did not address whether appellant's complaints could have been caused by this degenerative condition, nor did he discuss whether her preexisting injury had progressed beyond what might be expected from the natural progression of that condition.<sup>26</sup> A well-rationalized opinion is particularly warranted when there is a history of preexisting condition.<sup>27</sup>

Dr. Patel's July 18, 2014 note failed to provide a firm medical diagnosis as the physician only noted right knee pain and provided no opinion regarding the cause of appellant's injury. 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.<sup>28</sup>

In the instant case, appellant has established that the July 10, 2014 employment incident occurred as alleged. She has also established a firm medical diagnosis of right knee tibial plateau fracture, right knee joint effusion, and internal derangement of right knee joint. The record, however, is without rationalized medical evidence establishing a causal relationship between the accepted June 10, 2014 employment incident and appellant's right knee injury. Thus, appellant has failed to meet her burden of proof.<sup>29</sup>

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<sup>23</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

<sup>24</sup> *See Lee R. Haywood*, 48 ECAB 145 (1996).

<sup>25</sup> *See L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

<sup>26</sup> *R.E.*, Docket No. 14-868 (issued September 24, 2014).

<sup>27</sup> *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>28</sup> *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *C.B.*, Docket No. 09-2027 (issued May 12, 2010).

<sup>29</sup> The record contains a Form CA-16 dated September 30, 2014 and signed by the employing establishment. A properly executed CA-16 form can form a contractual agreement for payment of medical expenses, even if the claim is not accepted. *See* 20 C.F.R. § 10.300; *Val D. Wynn*, 40 ECAB 666 (1989); *see also* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (February 2012). Upon return of the case record, OWCP should address this issue.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

**CONCLUSION**

The Board finds that appellant has established that an employment incident occurred on July 10, 2014 at the time, place, and in the manner alleged. The Board further finds that appellant did not meet her burden of proof to establish that her right knee condition was causally related to the accepted July 10, 2014 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 15, 2015 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: May 23, 2016  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board