U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CRYSTAL M. LEE and DEPARTMENT OF VETERANS AFFAIRS, BATTLE CREEK VETERANS ADMINISTRATION HOSPITAL, Battle Creek, MI

Docket No. 98-1473; Submitted on the Record;
Issued January 7, 2000

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty on August 10, 1997.

On August 11, 1997 appellant, then a 50-year-old pharmacy technician, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that on August 10, 1997 she sustained an employment-related injury to her left knee. Appellant states that she stood up and heard a "cracking" sound in her left knee and experienced sharp pain. The employing establishment has converted appellant's claim for benefits.

Appellant has submitted various treatment notes ranging in dates from June 22, 1987 through August 11, 1997; an employee health record and report of employee's emergency treatment dated August 10, 1997 from Dr. William Jackson, Jr.; a radiology diagnostic report dated August 11, 1997, from Dr. Charles R. Tackett, a radiologist; a report of employee's emergency treatment from Dr. Tackett dated August 11, 1997; an authorization for examination and/or treatment, Form CA-16 and a clinical note from Dr. John L. Zeller, a Board-certified orthopedic surgeon dated August 20, 1997; a magnetic resonance imaging (MRI) scan examination dated September 4, 1997; a medical report from Dr. Zeller dated September 17, 1997; and a medical emergency triage report from an unidentifiable physician dated April 24, 1995.

Appellant also submitted a short note dated November 7, 1997, alleging that "On April 25, 1995 about 3:30 p.m. I tripped on the sidewalk near parking lot 2. I fell hard on both knees and right wrist also I hit my head on the fence in front of me. Ever since I fell both knees hurts time after time for several days."

In a decision dated November 21, 1997, the Office denied appellant's claim for compensation on the grounds that fact of injury had not been established. In an accompanying memorandum, the Office found that there was insufficient evidence in the file regarding whether

or not the claimed events occurred at the time, place and in the manner alleged. The Office further found that a medical condition resulting from the alleged work incidents was not supported by the evidence of file.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty on August 10, 1997.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[2] 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.[3]

In order to determine whether a federal employee has sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first competent to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[4]

The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event, incident or exposure, the employee must submit rationalized medical opinion, based on a complete factual and medical background, supporting such a causal relationship.[5]

In the present case, it is not disputed that appellant has a left knee condition; however, the Office found that there was insufficient evidence in the file regarding whether or not the claimed events occurred at the time, place and in the manner alleged. The Board notes, although, that while the Office indicated that appellant sustained a mild right knee sprain in June 1996 and there was no mention and/or reporting of the alleged pain in appellant's left knee until several days after the alleged August 10, 1997 incident had occurred, the Board finds that the Office did not dispute appellant's claim that she stood up on August 10, 1997 and heard a cracking sound in her left knee and experienced sharp pain in the performance of duty on August 10, 1997. Appellant has also consistently held that she has had pain in her knees ever

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[4] *Elaine Pendleton*, *supra* note 2.

[5] *Kathryn Haggerty*, 45 ECAB 383 (1994); *see also* 20 C.F.R. § 10.110(a).

since she fell and hurt both knees back on April 25, 1995,[6] and thereby caused, precipitated or aggravated her current left knee condition of August 10, 1997. The Board, therefore, finds that the claimed incident occurred at the time, place and in the manner alleged by appellant.[7]

Appellant, however, has submitted no medical evidence establishing that her left knee condition is a result of the accepted employment incident of August 10, 1997, or that appellant's left knee condition is causally related to any employment factors or conditions.[8] None of the medical evidence submitted presented a detail description of appellant's employment duties, or a physician's reasoned medical opinion attributing appellant's diagnosed condition of left knee soft tissue injury; degenerative menisci injury with appellant's accepted incident of August 10, 1997. For example the physicians of record did not provide medical reasoning explaining how or why appellant's standing up and feeling a sharp pain in her left knee caused, precipitated or aggravated a specific medical condition or disability. The physicians did not explain why or how, or to what extent, appellant continued to have a left knee condition, if any, after her alleged incident of April 25, 1995, and/or explain in detail the natural progression of appellant's left knee condition which allegedly resulted in appellant's current August 10, 1997 incident.[9] There are no medical reports of file which explain in detail appellant's mechanism of injury.[10] Consequently, the evidence of record failed to establish fact of injury, and is therefore, insufficient to establish that appellant sustained a left knee condition in the performance of duty on August 10, 1997.[11]

An award of compensation may not be based on surmise, conjecture or speculation, or appellant's belief of causal relationship. The mere fact that a disease or condition manifests itself or worsens during a period of employment or that work activities produce symptoms revelatory of an underlying condition[12] does not raise an inference of causal relationship between the condition and the employment factors. Neither the fact that appellant's condition became

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[6] The Office advised stated that appellant never filed a claim regarding this alleged injury of April 25, 1995.

[7] *See Robert A. Gregory*, 40 ECAB 478 (1989); *Thelma S. Buffington*, 34 ECAB 104 (1982).

[8] Following the Office's November 21, 1997 decision, appellant submitted additional factual and medical evidence. Appellant has also submitted additional evidence not previously considered by the Office, on appeal. The Board's jurisdiction, however, is limited to reviewing the evidence that was before the Office at the time of its final decision. The Board therefore has no jurisdiction to review any evidence submitted to the record after the Office's November 21, 1997 decision. 20 C.F.R. § 501.2(c). This decision does not preclude appellant from having this evidence considered, pursuant to a reconsideration request before the Office upon return of the case record to the Office.

[9] *Charles H. Tomaszewski*, 39 ECAB 461 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *see also George Randolph Taylor*, 6 ECAB 986 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[10] *Id.*

[11] *See Robert J. Krstyen*, 44 ECAB 227 (1992) (finding that appellant failed to submit sufficient medical evidence to establish that specific work factors caused or aggravated his back condition).

[12] *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.[13] As appellant has not submitted rationalized medical evidence explaining how and why her left knee condition was caused, precipitated or aggravated by her federal employment on August 10, 1997, the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated November 21, 1997 is hereby affirmed.

Dated, Washington, D.C.
January 7, 2000

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

[13] *Victor J. Woodhams*, *supra* note 3.