

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CURTIS T. RHYMER and DEPARTMENT OF THE ARMY,
RESERVE OFFICERS TRAINING CORPS, Johnson City, TN

*Docket No. 00-84; Submitted on the Record;
Issued January 23, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty.

On April 23, 1999 appellant, then a 21-year-old ROTC cadet, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that on April 23, 1999, while on a training run, he slid down an embankment and fell on a stump, hitting his knee. He claimed he bruised the tendons in his left knee. On the reverse of the form, appellant's supervisor confirmed that appellant was injured in the performance of duty, but did not indicate that appellant stopped training.

On April 23, 1999 the employing establishment authorized appellant, pursuant to Form CA-16, to obtain medical care from the Johnson City Medical Center Hospital.

Evidence of record includes a diagnostic imaging report, dated April 26, 1999, signed by Dr. Lori A. Deitte, a Board-certified radiologist,¹ who reported that two views of appellant's left knee indicated a 3 millimeter (mm) radiopaque density projecting over the region of the inferior aspect of the patellar tendon, and may represent a soft tissue foreign body. She also noted a mild osseous degenerative change with a small spur projecting from the posterior inferior patella. Dr. Deitte noted no other abnormalities to appellant's knee. Her report did not specify the cause of appellant's condition.

By letter dated June 23, 1999, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible for compensation benefits under the Federal Employees' Compensation Act. Further, the Office advised appellant of the additional medical and factual evidence needed to support his claim. In particular, appellant was advised to provide a physician's opinion, with

¹ The diagnostic imaging was performed at Johnson City Medical Center Hospital.

medical reasons for such opinion, as to how the work incident caused or aggravated the claimed injury. He was allotted 30 days within which to respond; however, he did not respond within the time allotted.

By decision dated August 3, 1999, the Office denied appellant's claim. The Office found that, although the employment incident occurred at the time, place and in the manner alleged, the medical evidence did not establish a relationship between the April 23, 1998 employment incident and his medical condition.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

An employee seeking benefits under the Act² 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 limitations 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.³ These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

In order to determine whether an employee actually 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 component to be established is that the employee actually experienced the employment incident, which is alleged to have occurred.⁵

The second component 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 or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁶

In the instant case, there is no dispute that appellant, on April 23, 1999, slid down an embankment and fell on a stump. However, there is insufficient medical evidence to establish that this employment incident caused or aggravated a medical condition.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Elaine Pendleton*, *supra* note 3.

⁶ *See John M. Tornello*, 35 ECAB 234 (1983).

In this case, Dr. Deitte's radiology report does not contain a description of an employment incident that would cause an injury, or an opinion as to how such incident inflicted injury. The radiology report does not provide a firm diagnosis pertaining to appellant's left knee. On June 23, 1999 the Office advised appellant of the type of medical and factual evidence needed to establish his claim. However, such evidence was not submitted.

As noted above, part of appellant's burden of proof includes the submission of medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted such evidence, he has not met his burden of proof in establishing his claim.

The Board notes, however, that it appears appellant may be entitled to reimbursement for evaluation and treatment pursuant to the CA-16 form issued by the employing establishment on April 23, 1999 which authorized treatment by "Johnson City Medical Center Hospital." The Board has held that where an employing establishment, pursuant to the Office regulations,⁷ authorizes medical treatment or a medical examination as a result of an employee's claim of sustaining an employment-related injury, a contractual obligation is created which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim.⁸ The record does not indicate that there has been reimbursement. Upon return of the case record, the Office should determine appellant's eligibility for reimbursement for examinations authorized pursuant to this form.

The decision of the Office of Workers' Compensation Programs dated August 3, 1999 is hereby affirmed as modified.

Dated, Washington, DC
January 23, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁷ See 20 C.F.R. § 10.300(a)

⁸ *Robert F. Hamilton*, 41 ECAB 431 (1990); *Pamela A. Harmon*, 37 ECAB 263, 264-65 (1986); *Frederick J. Williams*, 35 ECAB 805 (1984).