

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of YVAN NOBILE and DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS, Philadelphia, PA

*Docket No. 00-2741; Submitted on the Record;
Issued July 10, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury in the performance of duty on March 24, 2000.

Appellant, a 60-year-old electrician, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that on March 24, 2000 he sustained an injury to his left leg while in the performance of duty. He explained that the injury occurred aboard ship when he was going down the starboard side stairway between the boat deck and the upper deck. Approximately six hours after the alleged injury occurred, appellant was witnessed exhibiting a slight limp while entering the ship's control room. James A. Gallant reported that appellant casually mentioned that he had twisted his ankle a few hours earlier and that he thought it would be okay by the next day.

Appellant was initially treated for his injury on March 30, 2000 and he was diagnosed with left knee pain, rule out torn meniscus. The examining physician placed appellant on light duty with instructions to limit walking and avoid stair climbing. Appellant was also advised to see an orthopedist before returning to full duty. An April 12, 2000 x-ray of the left knee was interpreted as normal. However, a similarly dated magnetic resonance imaging (MRI) scan revealed a cystic nodule, which was thought to possibly represent a meniscal or sebaceous cyst or possibly some other soft tissue cystic lesion. The MRI scan also revealed a small knee joint effusion and degenerative changes in both menisci, but no definite meniscal tear.

In a report dated April 17, 2000, Dr. Harvey H. Randolph Jr., an osteopath and family practitioner, diagnosed a meniscal cyst and he recommended that appellant undergo a second MRI scan to rule out a meniscal tear. Dr. Harvey also referred appellant to an orthopedic surgeon.

The employing establishment challenged the legitimacy of appellant's claim on the basis that when questioned about his injury on March 25, 2000, appellant was somewhat equivocal as

to the events that gave rise to his claimed condition.¹ The employing establishment also surmised that the medical evidence did not support the occurrence of a job-related traumatic injury.

By letters dated June 14, 2000, the Office of Workers' Compensation Programs advised appellant of the need for additional factual and medical information in order to make a determination regarding his alleged injury of March 24, 2000.

In a June 19, 2000 response, appellant explained that on March 24, 2000 he was going down the ladder on the starboard side and he hurt his left knee. He further indicated that his knee and left leg started swelling. Appellant did not note any similar symptoms prior to the injury nor did he indicate that he sustained any subsequent injuries.

The Office also received two reports from Dr. Carl J. Beaudry, a Board-certified orthopedic surgeon. In a report dated May 4, 2000, Dr. Beaudry explained that he first examined appellant on May 1, 2000, at which time he presented with complaints of pain, swelling and clicking of the left knee following a "contusion sprain to the joint which occurred while on a ladder aboard ship." He noted March 24, 2000 as the date of injury. Dr. Beaudry discussed appellant's prior treatment and the April 12, 2000 x-ray and MRI scan results. On physical examination of the knee, Dr. Beaudry noted evidence of interarticular effusion. He also noted tenderness to palpation over the medial joint line and medial collateral ligament and further noted that he could not palpate a definite cystic mass over the medial meniscus. In conclusion, Dr. Beaudry stated that appellant presented with signs of post-traumatic internal knee derangement, which he characterized as a "possible tear and cyst of the medial meniscus." The doctor further explained that since appellant had not responded to an adequate trial of conservative treatment, he recommended appellant undergo arthroscopic examination of the left knee.

In a follow-up report dated May 26, 2000, Dr. Beaudry again noted a diagnosis of employment-related left knee internal derangement. He also reiterated his opinion that appellant undergo surgery.

By decision dated July 26, 2000, the Office denied appellant's claim on the basis that the evidence of record failed to establish that an injury was sustained as alleged.

The Board finds that appellant established that he sustained an injury in the performance of duty on March 24, 2000.

When an employee claims that he sustained an injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure

¹ The employing establishment submitted what purports to be a transcript of a March 25, 2000 conversation between appellant and Karl A. Van Florcke. The document notes that the remarks attributed to appellant are "not verbatim." (sic) Appellant reportedly indicated that he twisted his ankle on the ladder. Although appellant was unsure whether the injury occurred at the top, bottom or middle of the ladder, he was certain that he injured himself while descending the ladder. Mr. Van Florcke noted that appellant explained he was carrying his tool bag while descending the ladder and he heard a pop in his leg. However, appellant reportedly did not begin to experience pain until approximately 15 minutes after he descended the ladder.

occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.² Once an employee establishes that he sustained an injury in the performance of duty, he has the burden of proof to establish that any subsequent medical condition or disability for work for which he claims compensation is causally related to the accepted injury.³

The evidence of record establishes that appellant sustained a sprain and contusion of the left knee while utilizing a ladder in the performance of duty on March 24, 2000. This finding is supported by appellant's June 19, 2000 statement and Dr. Beaudry's May 4, 2000 report. However, it is necessary to remand the case for a finding on the period or periods of disability causally related to appellant's left knee injury and for payment of appropriate medical benefits. On remand, the Office should also address Dr. Beaudry's request for authorization of arthroscopic surgery.

The July 26, 2000 decision of the Office of Workers' Compensation Programs is hereby reversed and the case is remanded for further appropriate action consistent with this decision.

Dated, Washington, DC
July 10, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

² 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(a)(15) and (16) ("traumatic injury" and "occupational disease or illness" defined).

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).