

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEFF C. RUDE and DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, Plains, MT

*Docket No. 00-1443; Submitted on the Record;
Issued May 1, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained a knee injury causally related to the April 15, 1999 employment incident.

On April 22, 1999 appellant, then a 27-year-old forestry technician filed a traumatic injury claim, alleging that on April 15, 1999 while conducting his work duties, a rock rolled under his foot on a side hill and his knee collapsed. He did not stop work as a result of the claimed incident.

The Office of Workers' Compensation Programs initially received a treatment note and medical form report dated April 29, 1999 from Dr. David King, a Board-certified orthopedic surgeon, which indicated that appellant had a probable torn anterior cruciate ligament (ACL) in the right knee. The Office also received a medical release form signed by Dr. King on April 1, 1999, which pertained to a previous right knee injury sustained by appellant. The release form indicated that appellant had been able to return to regular-duty work following the prior injury.

In a letter dated May 17, 1999, the Office informed appellant that his claim was insufficient to establish that the injury occurred as alleged and further noted the information necessary to make a determination on his claim.

On May 27, 1999 the Office received an April 1, 1999 medical report from Dr. King, who noted that appellant sustained an injury to his right knee approximately six weeks prior, which had been giving him difficulties. He reported that appellant, while riding a snowmobile suffered a valgus type stress to his right knee and felt a pop at that time. Dr. King further reported that appellant felt discomfort for approximately a week and occasionally felt as though his knee was unsteady and might give out on him. He indicated that x-rays taken after the injury did not reveal any bony abnormalities.

The Office also received an April 29, 1999 report from Dr. King, who related that appellant had another episode with his right knee in which he stepped on a rock. He related that appellant felt as though his knee gave way on this occasion. Dr. King further reported that appellant indicated having felt a slipping sensation and was not sure whether it was just falling from the rock or whether his knee was unstable. He recommended that a magnetic resonance imaging (MRI) scan be performed to determine if appellant had an ACL tear as suspected.

The Office further received the MRI report dated May 5, 1999, from Dr. Roy Zimmer, a Board-certified radiologist, who concluded that appellant sustained a tear of the right ACL. In a May 6 and 17, 1999 report received by the Office, Dr. King confirmed the torn ACL diagnosis and discussed treatment including possible reconstruction surgery to allow appellant to perform his duties as a lead forestry technician.

By decision dated June 28, 1999, the Office denied the claim on the grounds that the evidence was insufficient to establish how stepping on a rock caused the claimed condition.

The Board finds that appellant failed to meet his burden of proof in establishing that he sustained a knee injury causally related to the April 15, 1999 employment incident.

An employee seeking benefits under the Federal Employees' Compensation Act 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 the Act," that the claim was filed within the applicable time limitation 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.¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.² 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. In this case, the Office accepted that the first component, the employment incident, occurred as alleged.³ The second component is whether the employment incident caused a personal injury and this generally can only be established by medical evidence.

Causal relationship is a medical issue⁴ and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Ruthie M. Evans*, 41 ECAB 416 (1990).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Id.*

factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ 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.⁷

In the instant case, there is no dispute that appellant stepped on a rock while working on April 15, 1999. However, there is insufficient medical evidence to establish that this action caused or aggravated a medical condition.

Medical reports indicate that appellant has a torn ACL in his right knee. He, however, has submitted no medical evidence establishing that this condition is due to factors of his employment. The April 1, 1999 report from Dr. King established that appellant had suffered a previous right knee injury approximately two months prior, which resulted in occasional instability and discomfort. In his April 29, 1999 report, Dr. King related that appellant indicated having felt a slipping sensation at the time of the employment incident and that he was unsure whether he simply felt that he was falling from the rock or whether his knee was unstable. Dr. King did not otherwise address the cause of appellant's alleged work-related condition.

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.

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

The decision of the Office of Workers' Compensation Programs dated June 28, 1999 is hereby affirmed.⁸

Dated, Washington, DC
May 1, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ The Board notes that the record contains an Office decision with respect to a reconsideration request that was issued after appellant filed the appeal in this case. It is well established that the Board and the Office may not have concurrent jurisdiction in the same case on the same issue. *Douglas E. Billings*, 41 ECAB 880, 895 (1990).