

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA KNIPFING and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Holtsville, NY

*Docket No. 00-1162; Submitted on the Record;
Issued October 22, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established a right knee injury in the performance of duty on March 24, 1998.

On March 24, 1998 appellant, then a 45-year-old clerk, filed a claim alleging that she sustained a right knee injury when she lost her balance and fell at work while trying to pick up paper on the floor. By decision dated December 16, 1998, the Office denied the claim on the grounds that the medical evidence was insufficient to establish the claim. In a decision dated September 27, 1999, the Office denied modification.

The Board finds that the case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that he or she sustained an injury while in the performance of duty.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. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.³

There does not appear to be any dispute that the employment incident occurred as alleged on March 24, 1998. With respect to the medical evidence, appellant received treatment on

¹ 5 U.S.C. §§ 8101-8193.

² *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

³ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

March 25, 1998 from Dr. Leonard Figelman, an orthopedic surgeon, who reported that appellant complained of antero-medial joint pain in the right knee and noted that appellant reported some pain in the area for the prior six months. Dr. Figelman indicated in his history that appellant had fallen at work a day earlier, and he diagnosed medial meniscus tear. On December 11, 1998 the Office received a response from Dr. Figelman indicating that appellant had a previous injury in December 1996 that was diagnosed as a medial meniscus tear; he also indicated that x-rays from December 1996 were within normal limits and no recent x-rays had been taken. Dr. Figelman stated that the March 1998 injury aggravated her prior injury, and that appellant had been basically asymptomatic since early 1997 until the March 1998 fall. In a report dated April 8, 1999, Dr. Figelman again stated that appellant had aggravated her right knee on March 24, 1998.

The Board finds that the evidence from Dr. Figelman is sufficient to require further development of the evidence. Appellant received treatment from Dr. Figelman the day following the employment incident, and he noted the history of injury and diagnosed a medical meniscus tear. He further provided an opinion that the fall on March 24, 1998 aggravated her right knee condition. The record contains no contrary medical evidence. It is well established that when an uncontroverted inference of causal relationship is raised, the Office is obligated to further develop the medical evidence.⁴ The Board finds that appellant has submitted sufficient evidence to require further development in this case. After such further development of the case as the Office deems necessary, it should issue an appropriate decision.

The decision of the Office of Workers' Compensation Programs dated September 27, 1999 is set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
October 22, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member

⁴ *Id.*