

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD J. KORTAS and DEPARTMENT OF COMMERCE,
U.S. CENSUS BUREAU, Chicago, IL

*Docket No. 01-1789; Submitted on the Record;
Issued April 18, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
COLLEEN DUFFY KIKO

The issue is whether appellant has established that he sustained a knee injury in the performance of duty.

On March 8, 2001 appellant then a 66-year-old enumerator trainee, filed a notice of traumatic injury (Form CA-1) alleging that he injured his knee while “tripping on [a] rug in [the] lobby causing [me to] fall onto [the] ‘marble’ floor.” Appellant indicated that the injury occurred on April 27, 2000 and that he stopped work and received medical care that same day from Resurrection Medical Center. He notified his supervisor of the injury on March 8, 2001.

By letter dated March 20, 2001, the Office of Workers' Compensation Programs advised appellant and the employing establishment that the information submitted was not sufficient to establish that he sustained an injury as alleged. Appellant was advised to submit medical evidence in support of his alleged injury. The Office provided a detailed list of evidence needed and questions to be answered. Appellant was allotted 30 days in which to submit the requested evidence. No information was submitted by appellant.

On March 21, 2001 the employing establishment submitted a letter controverting appellant's claim, claiming that appellant had delayed in reporting his alleged injury for 11 months and had not completed the Form CA-20 provided to him.

By decision dated May 1, 2001, the Office denied appellant's claim for the April 27, 2000 injury on the grounds that the evidence of record failed to establish that he sustained an injury on that date causally related to factors of his employment.

The Board finds that appellant did not meet his burden of proof in establishing that he sustained an injury to his knee in the performance of duty on April 27, 2000, as alleged.

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 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.¹ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

In a traumatic injury case, in order to determine whether an employee actually sustained an injury in the performance of duty, it must first be determined whether “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.³ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁴ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical evidence is medical evidence, which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

In this case, appellant did submit a statement to the Office wherein he described the factors of employment he believed caused his knee injury. On March 20, 2001 the Office advised appellant that he was to submit medical evidence explaining causal relationship between his claimed injury and his alleged factors of employment.

¹ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

⁴ *Id.* For a definition of the term “injury,” see 20 C.F.R. § 10.5(a)(14).

⁵ *Id.*

Appellant did not submit medical evidence to establish that his knee injury was sustained in the performance of duty causally related to factors of his federal employment-related duties. At the time the Office issued its May 1, 2001 decision denying appellant's claim, the Office had not received any medical evidence. The Office, therefore, properly denied appellant's claim.⁶

The May 1, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 18, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

⁶ The Board notes that appellant submitted a detailed list of answers requested by the employing establishment eight days after the May 1, 2001 Office decision was issued and at no time requested reconsideration before the Office to have such evidence reviewed. The Board cannot review any new or additional evidence not before the Office at the time the Office rendered its final decision. *See* 20 C.F.R. § 501.2(c).