

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GRETCHEN M. MORROW and U.S. POSTAL SERVICE,
POST OFFICE, Crescent, PA

*Docket No. 02-965; Submitted on the Record;
Issued December 20, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury to her right knee while in the performance of duty.

On November 11, 2001 appellant, then a 67-year-old rural letter carrier, filed a claim alleging that on November 5, 2001 while walking back to her mail delivery vehicle after delivering mail, her knee "seemed to lock," and that "it gave out and I went down." Appellant noted that she did not twist or stumble as a result of the incident.

In a report dated November 5, 2001, an emergency room physician noted that appellant was treated that day for a "locked knee" sustained while at work.

By letter dated November 15, 2001, the Office advised appellant that the information submitted in her claim was insufficient to establish that she sustained an injury while in the performance of duty on November 5, 2001. The Office requested additional information including a physician's opinion, supported by medical rationale, as to how the reported work incident caused her claimed injury. The Office allowed 30 days for appellant to submit medical evidence.

In a report dated November 13, 2001, Dr. Eugene T. Danko, Board-certified in radiology, stated that a right knee magnetic resonance imaging (MRI) scan taken November 12, 2001, revealed a contusion of the proximal tibia (shin bone) and some degenerative meniscus change but "no tear is seen."

In a report dated November 14, 2001, Dr. Gretchen P. Engle, appellant's attending physician and a Board-certified orthopedic surgeon, stated that appellant sustained a bone bruise, released her to "sedentary work for [four] weeks," referred her to physical therapy three times a week for four weeks and advised her to arrange a follow-up appointment after therapy.

In a prescription note dated November 28, 2001, Dr. Engle diagnosed right knee sprain and returned appellant to full duty on December 3, 2001.

By decision dated December 17, 2001, the Office denied appellant's claim that she sustained an injury on November 5, 2001, on the grounds that the evidence of record "was insufficient to establish the relationship between the event and the medical condition and the objective findings that support that condition."

In a report dated November 7, 2001 and received by the Office on January 10, 2002, Dr. Engle noted appellant's history of injury, noting that on November 5, 2001 appellant was walking on a customer's steps when it "felt like the knee locked up and then gave way. She never really fell because she grabbed onto the railing." Appellant was then seen by an emergency room physician. Appellant noted intermittent pain "deep inside," and noted pain on weight bearing. Upon examination, the physician noted moderate right knee swelling and recommended an MRI scan.

By undated letter received by the Office on February 14, 2002, appellant requested review of the written record.

In a report dated November 28, 2001 and received by the Office also on February 14, 2002, Dr. Engle stated that appellant's MRI scan was normal, and that, upon examination, she had little pain, no swelling and full extension. The physician stated that appellant's right knee strain had resolved and that she was released to return to full duty.

By decision dated April 3, 2002, the Office's Branch of Hearings and Review found that appellant's request for review of the written record was untimely. The Office, however, found that the issue in the case could equally well be addressed by requesting reconsideration from the district Office and by submitting evidence not previously considered which supports a determination that her condition was causally related to the November 5, 2001 incident.

The Board finds that appellant met his burden of proof.

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "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.¹ Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.² The question of whether an employment incident caused a personal injury generally can be established only by medical evidence.³ There is no necessity to show special exposure or unusual conditions of employment in the factors producing disability.⁴

¹ *John J. Carlone*, 41 ECAB 354 (1989).

² *Id.*

³ *See id.*

⁴ *Mary Joan Coppolino*, 43 ECAB 988 (1992).

In this case, the Office accepted that the November 5, 2001 incident occurred as alleged. An emergency room physician stated that appellant was treated on November 5, 2001 for a “locked knee while at work,” and Dr. Engle, appellant’s attending physician, also noted a history of injury that was consistent with appellant’s claim and medical treatment. In a report two days after the incident, the physician noted swelling and related appellant’s complaints of pain. After an MRI scan was reviewed as essentially normal, Dr. Engle diagnosed appellant with resolved right knee strain and returned her to work. Given the simple nature of the mechanism of injury and the noncomplex character of the condition diagnosed as resulting from the November 5, 2001 employment incident, this medical evidence is sufficient to establish that appellant sustained an employment injury on November 5, 2001 in the form of right knee strain.⁵ Appellant would be entitled to compensation for disability or medical treatment related to this November 5, 2001 employment injury and, consequently, the case should be remanded to the Office for determination of her entitlement to compensation.⁶

The decision of the Office of Workers’ Compensation Programs dated April 3, 2002 is set aside and the decision dated December 7, 2001 is hereby reversed on the issue of fact of injury and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
December 20, 2002

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ See generally Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.3(c) (April 1993) (indicating that certain types of simple injuries would not require the provision of medical ration

⁶ In view of the Board’s disposition of the merits, the issue of whether the Office properly denied appellant’s request for a review of the written record as untimely under 5 U.S.C. § 8124 is moot.