United States Department of Labor
Employees' Compensation Appeals Board

JANETH M. THOMAS, Appellant	)	
and	)	**Docket No. 03-972**
	)	**Issued: January 8, 2004**
DEPARTMENT OF THE ARMY, REYNOLDS ARMY COMMUNITY HOSPITAL, Fort Sill, OK, Employer	)	

Appearances:
Janeth M. Thomas, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On March 11, 2003 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated February 8, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant established that she sustained a left knee injury causally related to factors of her federal employment.

FACTUAL HISTORY

On October 24, 2002 appellant, then a 41-year-old medical clerk, filed a traumatic injury claim alleging that on October 23, 2002 she injured her left knee when she slipped and fell while walking down the hallway in the performance of duty. Her left knee had previously been totally replaced in 1995.[1] Appellant's claim form contains a statement from Gilbert Alvarez who

[1] There is no indication in the record that appellant's left total knee replacement was employment related.

indicated that, on the date in question, he heard a loud noise and then heard appellant call out for him. When he stepped into the hallway, he found her lying on the floor. Appellant returned to work on October 24, 2002.

By letter dated January 8, 2003, the Office informed appellant that the evidence received was insufficient to establish her claim and asked that she submit additional factual and medical evidence in support of her claim. The Office specifically requested that appellant submit a physician's report that contained the dates of examination and treatment, a history of injury, a detailed description of the findings, results of all x-rays and laboratory tests and an opinion, supported by medical rationale, as to how the reported work incident caused the claimed injury. In response to the Office's request, appellant submitted additional medical reports and treatment notes in support of her claim.

In a decision dated February 8, 2003, the Office denied appellant's claim finding that the evidence of record did not establish that she had sustained an injury in the performance of duty.

LEGAL PRECEDENT

In order to determine whether an employee sustained a traumatic 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 that 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.[2] The second component is whether the employment incident caused a personal injury.[3]

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[4] The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused or aggravated by employment conditions, is sufficient to establish a causal relationship.[5]

ANALYSIS

In this case, it is undisputed that appellant worked as a medical clerk for the employing establishment and that, on October 23, 2002, she fell while in the performance of her duties.

[2] *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

[4] *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

[5] *Charles E. Evans*, 48 ECAB 692 (1997).

Appellant's claim form indicates that the employing establishment was notified of the incident on October 23, 2002 the date it occurred and the claim form also contains a statement from a coworker confirming that he heard a loud noise, heard appellant call his name and went out into the hall to discover her lying on the floor. In addition, the record contains evidence that appellant has a serious left knee condition, which required a total knee replacement in 1995. Therefore, the only issue is whether appellant established that her current condition is causally related, either directly, or through aggravation, exacerbation or acceleration, to the October 23, 2002 employment incident.

In support of her claim, appellant submitted emergency room treatment notes dated October 23, 2002 from Reynolds Army Community Hospital. However, with the exception of the date and the history of injury, these notes are largely illegible. In addition, the record contains treatment notes from Anne McClure, a physical therapist. These reports have little probative value, however, as they are not signed by a physician and, therefore, cannot be considered medical evidence.[6] The record also contains a bone scan report dated January 6, 2002. This report, however, does not contain any history of injury or an opinion as to the cause of the conditions revealed. Finally, appellant submitted treatment notes from Dr. Donald M. Baldwin, appellant's treating Board-certified orthopedic surgeon, dated October 29, November 26 and December 30, 2002. Most of these reports contain no discussion of the history of injury or the causal relationship, if any, between her diagnosed conditions and her employment.

As noted above, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relate to the employment incident.[7] Therefore, as these medical reports do not address the relevant issue, they are insufficient to support appellant's claim. However, in his initial report dated October 29, 2002, Dr. Baldwin noted that appellant had a history of total knee replacement in 1995 and on October 23, 2002 had slipped at work and sustained an injury of her left knee. Dr. Baldwin noted that x-rays revealed degenerative changes adjacent to the replaced knee components and a suggestion of loosening of the patellar component, but none of the other components. He diagnosed knee sprain status post total knee arthroplasty and stated that he had ordered physical therapy for strengthening. Dr. Baldwin further noted that he had advised appellant of the possibility of loosening of the patella, but added that this, if indeed it was present, could have preexisted this injury.

In this case, appellant has not submitted medical evidence to establish that she incurred an employment-related injury. While Dr. Baldwin stated in his October 29, 2002 reports that appellant had fallen on October 23, 2002 and further diagnosed a knee sprain, he did not provide a

[6] A physical therapist is not a "physician" within the meaning of section 8101(2) and cannot render a medical opinion. *Vickey C. Randall*, 51 ECAB 357 (2000).

[7] *Gary J. Watling*, 52 ECAB 278 (2001).

medical opinion that explained how and why the employment incident caused the knee sprain. Consequently, appellant has not submitted rationalized medical evidence, based on a complete history, explaining how and why her knee condition is employment related. As noted above, the question of whether an employment incident caused a personal injury generally can only be established by medical evidence. Such evidence was requested by the Office, but was not submitted by appellant.

CONCLUSION

The Board finds that appellant failed to establish that she sustained a left knee injury causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 8, 2003 is affirmed.

Issued: January 8, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member