



On August 28, 1999 appellant wrote: "When I take out bucket the post[al] con[tainer] is fell down on my forehead. My forehead is swollen and I feel di[zz]y."

A coworker provided an August 28, 1999 statement in which she noted that on that date appellant had walked over to her and informed her that she was struck in the head by the gate of the postal container. The coworker noted that appellant stated that she was experiencing dizziness, but noted that, upon examination, there was no bleeding on her forehead. The coworker did note that the gate was faulty as one of the latches did not connect.

Several other coworkers also provided statements regarding the incident and identifying a broken gate.

On August 30, 1999 an authorization for medical treatment was completed, noting appellant's injury as "I feel very di[zz]y and pain."

On August 31, 1999 another authorization for medical treatment was completed, noting appellant's injury as "I feel dizzy and nauseous."

Appellant provided an August 31, 1999 note from Dr. Young W. Kim, an internist specializing in cardiovascular diseases, which stated that appellant was seen that date and was expected to return to light-duty work on September 4, 1999.

In an August 31, 1999 Form CA-20, attending physician's report, Dr. Kim noted that his findings included localized swelling on the right side of the forehead without erythema or laceration. No diagnosis was noted and the form indicated that appellant could return to light-duty work on September 4, 1999.

On September 14, 1999 the employing establishment controverted appellant's claim. The employing establishment noted that there was no injury-related diagnosis.

By letter dated September 22, 1999, the Office requested further information about the incident, including a diagnosis and an opinion on causal relation.

Appellant submitted an October 14, 1999 narrative report from Dr. Irene M. Chow, an osteopath, which noted that on August 28, 1999 appellant was "removing mail from the post[al] con[tainer] with the gate in the upright position when the gate gave way and it fell on her right forehead." Dr. Chow noted that appellant was treated and released on that date from St. Vincent's Hospital, that on August 30, 1999 the employing establishment physician did not notice any external signs of injury and noted that the neurological examination was negative, and that appellant complained of dizziness and elevated blood pressure. On August 31, 1999 Dr. Chow noted that appellant complained of dizziness, headache and vomiting, and that her blood pressure was elevated, and she diagnosed two conditions: (1) the alleged job-related injury to the forehead without external symptomatology; and (2) elevated blood pressure. Dr. Chow noted that the elevated blood pressure did not occur as a result of the forehead contusion.

On October 26, 1999 the Office accepted appellant's claim for contusion of the head.

In an undated statement received by the Office on May 22, 2000, appellant requested compensation for lost wages during the period November 23, 1999 to January 17, 2000. Appellant claimed that she lost wages due to necessary recuperation after her knee surgery. She alleged that she was likely indefinitely disabled due to her knee and that she would likely never return to fully performing her duties as a markup clerk. Appellant claimed that on August 28, 1999 the postal container gate hit her forehead and at the same time injured her knee, which went unnoticed because her head was the pronounced injury. Appellant claimed that less visible injuries surfaced later, which included injury to her left knee, that she noticed when she began to experience brief, painful twinges in her left knee. Appellant claimed that she kept working and that her left knee grew progressively worse and swollen. Appellant alleged that she was not able to do anything because of her knee and that therefore she sought medical treatment, but that x-rays were negative for any pathology. Appellant claimed that magnetic resonance imaging (MRI) revealed horizontal oblique tears of both the body and posterior horns of both medial and lateral menisci. She alleged that this was due to rigorous physical stress on the knee. Appellant claimed: "I have no doubt that my knee injury has been a result of my being physically pushed to perform duties that taxed my physical strength and were beyond my physical capabilities. The stress of these activities probably contributed to the tearing of my menisci of my left knee." Appellant also requested indefinite light-duty status.

Appellant submitted an injury form for her head injury, a prescription, a light-duty release, and some employing establishment internal notes, which failed to address her left knee claim.

The employing establishment controverted appellant's left knee claim, indicating that on March 7, 2000 she claimed that she had a left knee injury stating, "I thought that these brief, painful twinges in my left knee were due to the shock of my unfortunate encounter with the post container gate." It noted that no medical documentation was submitted.

Appellant submitted an April 6, 2000 report from Dr. Yung Shim, an internist, which indicated that she underwent arthroscopic surgery for a meniscectomy on November 23, 1999 for a tear of the posterior horn and medial and lateral menisci of the left knee. Light duty for four weeks was recommended.

On August 29, 2000 appellant filed an occupational disease claim alleging that her August 28, 1999 injury from the gate of the postal container contributed to brief, painful twinges in her left knee which were later diagnosed as meniscal tears. Appellant claimed "My unfortunate encounter with the post container gate was due to the performance of my duties, which was the cause of my knee injury. Due to that unfortunate encounter, my knee became swollen and painful everyday."

Accompanying her claim form, appellant provided a statement about her being denied the forms she sought. She also claimed that she did not immediately report the left knee injury because it did not become apparent until the next day.

The employing establishment again controverted appellant's claim noting that no contemporaneous mention of a left knee injury had been made.

By decision dated January 22, 2004, the Office rejected appellant's claim for a left knee injury finding that the evidence of record did not support that it was employment related. The Office found that no factual or medical evidence had been submitted which suggested any connection between her head injury on August 28, 1999 and her August 7, 2000 left knee condition.

### **LEGAL PRECEDENT**

To determine whether a federal 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 she or he actually experienced the employment incident at the time, place and in the manner alleged. 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.<sup>1</sup> The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion 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 incident. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>2</sup> must be one of reasonable medical certainty<sup>3</sup> 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.<sup>4</sup>

Neither the fact that a 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 causal relationship.<sup>5</sup>

### **ANALYSIS**

In this case, the Office accepted that the injury of August 28, 1999 occurred as alleged, that the gate fell and struck appellant in her head. Therefore, the fact of injury has been established. After the initial shock of a head injury, appellant later on noticed that her left knee was also injured and she related it to the falling gate that caused her head contusion.

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<sup>1</sup> *Gloria J. McPherson*, 51 ECAB 441 (2000).

<sup>2</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>3</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>4</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>5</sup> *Judith A. Peot*, 46 ECAB 1036 (1995).

Despite the fact that appellant treated the left knee claim as an occupational injury and filed her claim accordingly, the Office regarded it as another traumatic injury.<sup>6</sup> The Office determined that appellant had failed to submit sufficient medical evidence to establish that the August 28, 1999 gate falling incident caused a left knee injury.

In support of her left knee injury, appellant submitted a coworker's statement which supported appellant's assertions that the gate fell and struck her on her forehead. This coworker, however, did not see the falling gate strike appellant's left knee. Therefore, this report is not probative of appellant's claim. Several other coworkers also provided statements regarding the broken gate but none of them reported seeing appellant being struck in the knee by the falling gate on August 28, 1999, such that none of the statements support appellant's knee injury claim.

Appellant submitted two August 31, 1999 reports from Dr. Kim which noted her head injury and period of disability but which did not mention any left knee injury connected with the falling gate. Appellant was cleared to return to work on September 4, 1999.

Appellant also provided an October 14, 1999 report from Dr. Chow which described her head injury from the falling gate. Dr. Chow diagnosed job-related forehead injury from falling gate and elevated blood pressure, which she opined was not a sequelae of the forehead injury. This report does not support appellant's August 28, 1999 traumatic left knee injury claim and does not establish that a left knee injury occurred at any time contemporaneously with the gate falling at work.

Appellant claimed that her left knee injury went unnoticed because of the other more conspicuous forehead injury and that was why it was not reported at the same time her head injury was. An MRI scan was reported as revealing horizontal oblique tears of both the body and the posterior horn of both medial and lateral menisci. Appellant claimed that this was due to the rigorous physical stress on the knee. Appellant claimed that the conditions occurred because she was pushed into performing duties that were beyond her physical capabilities, and that after returning to work she continued to work using her left knee which made it worse over time because it became swollen with brief painful twitches with use. Appellant alleged that the stress caused the tears on the left.

On April 6, 2000 Dr. Shim successfully performed arthroscopic surgery and thereafter placed appellant on light duty. Appellant continued to assert that the unfortunate encounter with the gate, her knee became swollen and painful everyday.

No medical evidence, however, offered any opinion as to the causation of appellant's left knee problems and meniscal tears or related it to factors of her federal employment over time, to her August 28, 1999 gate falling injury, or to her duties on that date or at that time.

Thereafter appellant failed to submit any further rationalized factual or medical evidence that mentioned a left knee contusion or other knee injury as it related to factors of appellant's

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<sup>6</sup> The Office has not adjudicated whether appellant has established that she sustained an occupational knee injury causally related to factors of her federal employment pursuant to the Form CA-2 she submitted.

federal employment or to the August 28, 1999 incident. The only medical evidence of record that was contemporaneous to the August 28, 1999 gate falling incident involved a right forehead contusion injury alone. No mention of any other related condition was made. This does not support appellant's allegations of traumatic injury or occupational illness.

Therefore, appellant has not submitted factual evidence or medical evidence, contemporaneous or otherwise, to establish that her left knee injury in May 2000 had any relationship, causally or temporally, with her August 28, 1999 postal container gate incident. As there is no medical evidence relating the onset of her left knee condition in May 2000 to the August 28, 1999 gate falling incident, there is nothing in the record that supports appellant's claim.

Therefore, appellant has failed to meet her burden of proof in establishing that she sustained a left knee injury, causally related to an August 28, 1999 employment injury.

**CONCLUSION**

As appellant has failed to present factual or rationalized medical evidence that relates her May 2000 diagnosed left knee condition to an August 28, 1999 gate falling incident, she has not met her burden of proof to establish her claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Program dated January 22, 2004 is hereby affirmed.

Issued: July 29, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member