

stepped on a plastic tray. Appellant indicated that he slipped but did not fall. He stopped working in mid-August 2003 and returned to regular duty in December 2003.¹

Appellant submitted an August 12, 2003 form report in which Dr. Richard G. Olarsch, an attending osteopath specializing in family practice, stated that he reported sustaining an injury on August 7, 2003 when he slipped and felt a pull in his groin area. He diagnosed right lower extremity pain and edema due to the August 7, 2003 injury and recommended various work restrictions.² Appellant also submitted notes dated between August and September 2003, in which Dr. Olarsch indicated that he complained of right knee and groin pain.³

By decision dated December 18, 2003, the Office denied appellant's claim that he sustained an employment-related injury on August 7, 2003. The Office accepted that he experienced an employment incident when he slipped on a plastic tray on that date, but found that appellant did not submit sufficient medical evidence to establish that he sustained an injury due to the incident.

Appellant requested a hearing before an Office hearing representative which was held on July 22, 2004. He described his prior lower extremity injuries and provided further details regarding his claim that he sustained groin and right knee injuries when he slipped on a tray on August 7, 2003.

In an August 22, 2004 report, Dr. William F. McLay, an attending osteopath, indicated that he had been appellant's primary care physician for the prior 10 years. He stated that appellant experienced chronic right knee pain due to an October 21, 2000 accident which caused internal derangement of the right knee and necessitated surgery on June 21, 2001. Dr. McLay indicated that the surgery was successful, but that appellant reinjured his knee on May 2, 2002. He stated that the "most recent injury occurred on August 7, 2003" when appellant "inadvertently stepped into an empty mail tray that caused him to slip and fall, aggravating the already damaged knee and causing a severe muscle tear in the groin area." Dr. McLay diagnosed a tear in the medial meniscus cartilage of the right knee, severe strain and sprain of the right inguinal musculature and status post right knee arthroscopy. He indicated that appellant's injuries were causally related to the August 7, 2003 accident and stated that he was fully disabled due to the accident from October 18 to December 9, 2003.

¹ The record indicates that appellant was working in a light-duty position on August 7, 2003. He sustained several prior employment injuries, including left plantar fasciitis which developed in 1998, a right medial meniscus tear and aggravation of osteoarthritis which were sustained on October 21, 2000 and an aggravation of lower leg osteoarthritis which was sustained on May 2, 2002. The Office authorized an arthroscopic procedure in connection with the October 21, 2000 injury. Appellant also filed a claim for a traumatic right knee injury on July 7, 2003 which was denied by the Office under Claim No. 02-20474835.

² The record also contains an August 18, 2003 form report in which Dr. Olarsch stated that appellant reported tripping and twisting his right knee on July 7, 2003. He diagnosed right lower extremity pain and edema due to the July 7, 2003 incident. This claim was denied by the Office under a different case file and the matter is not the subject of the present claim.

³ An August 12, 2003 notation indicated that appellant complained of right-sided groin pain after slipping on August 7, 2003.

By decision dated and finalized November 2, 2004, the Office hearing representative affirmed the December 18, 2003 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing the essential elements of his 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.⁵ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.⁷ Second, the employee must submit evidence in the form of medical evidence to establish that the employment incident caused a personal injury.⁸ The term "injury" as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to or contact with certain factors, elements or conditions.⁹

ANALYSIS

The Office accepted that appellant experienced an employment incident when he slipped on a plastic tray on August 7, 2003. The Board finds, however, that he did not submit sufficient medical evidence to establish that he sustained an injury due to this incident.

Appellant submitted an August 12, 2003 form report, in which Dr. Olarsch stated that he reported sustaining an injury on August 7, 2003 when he slipped and felt a pull in his groin area. He diagnosed right lower extremity pain and edema due to the reported August 7, 2003 injury and indicated that appellant was partially disabled. This report, however, is of limited probative value on the relevant issue in that Dr. Olarsch did not provide adequate medical rationale in

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

⁷ *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁸ *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁹ *Elaine Pendleton*, *supra* note 5; 20 C.F.R. § 10.5(a)(14).

support of his conclusion on causal relationship.¹⁰ He did not explain how the August 7, 2003 employment incident would have been competent to cause the diagnosed injury. Dr. Olarsch's report is of limited probative value for the further reason that he did not provide any factual or medical history of the prior medical conditions appellant experienced in his right lower extremity, including his October 21, 2000 and May 2, 2002 right knee injuries.¹¹ He did not provide any findings on examination or diagnostic testing. Dr. Olarsch generally indicated that appellant experienced pain and edema in his right lower extremity, but he did not identify the portion of the lower extremity which was affected. For these reasons, his report is of diminished probative value.

In August 22, 2004 report, Dr. McLay, an attending osteopath, stated that on August 7, 2003 appellant "inadvertently stepped into an empty mail tray that caused him to slip and fall, aggravating the already damaged knee and causing a severe muscle tear in the groin area." He diagnosed a tear in the medial meniscus cartilage of the right knee and severe strain and sprain of the right inguinal musculature due to the August 7, 2003 employment incident. Although Dr. McLay provided some discussion of the history of appellant's lower extremity problems, he did not provide any findings on examination or diagnostic testing. Therefore, the basis for his right knee and groin diagnoses remains unclear. Dr. McLay's report was dated more than a year after the August 7, 2003 employment incident and the date of his examination of appellant was not identified. There is no indication that he examined him on or about the August 7, 2003 employment incident and he did not explain why appellant's problems were not due to some nonwork-related condition. Dr. McLay did not provide any rationale in support of his opinion on causal relationship in that he did not provide any sufficient explanation of how the August 7, 2003 incident could have caused injury to appellant's groin and right knee. His opinion on causal relationship is of limited probative value for the further reason that it is based on an inaccurate factual history. Dr. McLay noted that appellant fell when he slipped on August 7, 2003 but the record clearly indicates that he did not fall on that date. He also stated that appellant was fully disabled due to the August 7, 2003 incident from October 18 to December 9, 2003. However, Dr. McLay did not explain how appellant's condition supported a finding of total disability.¹²

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury on August 7, 2003 in the performance of duty.

¹⁰ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

¹¹ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

¹² For these reasons, the opinion of Dr. McLay is of diminished probative value.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' November 2, 2004 decision is affirmed.

Issued: July 13, 2005
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member