

Appellant submitted a report from Dr. Anthony J. Marinello, a Board-certified family practitioner, dated December 23, 2003, who treated appellant for anxiety due to increased stress at work. He came under the treatment of Dr. James E. Holmblad, a Board-certified orthopedist, who noted in a report dated January 27, 2004, that appellant was treated for a left foot and ankle injury. Dr. Holmblad noted findings upon physical examination of loss of range of motion of the left lower extremity and a negative left foot x-ray. He recommended physical therapy and advised that appellant was totally disabled. On February 2, 2004 Dr. Holmblad noted left knee tenderness around the left medial joint line with limited range of motion. He advised that appellant remained disabled. In reports dated February 9 and 23, 2004, the physician indicated that appellant's left knee and calf were still tender along the left medial joint line with a hematoma on the medial side with some limitation in range of motion. Also submitted was a magnetic resonance imaging (MRI) scan of the left knee dated February 27, 2004, which revealed a tear of the posterior horn of the medial meniscus. Other reports from Dr. Gary A. Williams, a Board-certified orthopedist, dated March 1, 2004 to April 7, 2005, noted that appellant underwent arthroscopic surgery of the left knee and was progressing well postoperatively. In a report dated May 7, 2004, Dr. Williams noted that appellant had moderate effusion and recommended physical therapy. He returned appellant to part-time light duty with various restrictions.

In a letter dated June 8, 2004, the Office advised appellant of the type of factual evidence needed to establish his claim and requested that he submit such evidence. In a letter of the same date, the Office requested information from Dr. Holmblad with regard to his treatment of appellant's left knee injury.

In a brief dated July 1, 2004, appellant noted that he advised his supervisor James Herzog immediately following the incident on December 15, 2003. He also submitted copies of photographs depicting the location of the incident. Appellant noted that after the incident he experienced left knee pain and sought treatment on January 16, 2004. He indicated that he delayed in seeking medical treatment in December 2003, because he thought his knee was sprained and "he could handle it." Appellant indicated that he had sustained a heel injury in 1999 and a left calf strain in 2000. He submitted records from Dr. Marinello dated October 29, 1993 to November 14, 2003, which noted appellant's treatment for various conditions including hyperthyroid, a rash, hypertension, depression, kidney stones, allergic rhinitis, carpal tunnel syndrome and ventral hernia. In a report dated January 16, 2004, Dr. Marinello noted that on December 15, 2003 appellant sustained a left knee injury when he was climbing into his mail truck and the wind blew the truck door causing him to twist his left knee. He diagnosed left knee pain/injury and effusion. On January 30, 2004 Dr. Marinello noted treating appellant for hyperthyroid, allergic rhinitis, anxiety/depression and ventral hernia. On May 28, 2004 the physician indicated that appellant was progressing well and could return to light-duty work. Also submitted were reports from Dr. Williams dated April 13 to May 7, 2004, that noted appellant's left knee surgery on April 13, 2004 and his postoperative work status. Appellant submitted factual statements from coworkers and associates regarding the claimed injury.

The employing establishment submitted a statement from Mr. Herzog, appellant's supervisor, dated January 16, 2004, who noted that on December 15, 2003 appellant informed him that he had twisted his knee while working but declined to receive medical attention. Mr. Herzog advised that appellant returned in two weeks and indicated that his knee was still

bothering him and he was going to seek medical attention. Appellant later informed Mr. Herzog that he was on medication for his knee and was feeling better. Mr. Herzog indicated that, on January 9, 2004, appellant informed him that he was participating in an ice rescue with the fire department and on January 10, 2004, appellant indicated that his knee was bothering him and he would seek additional medical treatment.

In a decision dated July 8, 2004, the Office denied appellant's claim as the evidence was not sufficient to establish that appellant's injury was caused by factors of his employment.

In letters dated June 20 and 21, 2005, appellant requested reconsideration and asserted that he submitted sufficient evidence to establish that he sustained a work-related injury on December 15, 2003. Appellant submitted reports from Dr. Marinello dated October 29, 1993 to December 23, 2003, which noted treating appellant for various conditions. On August 24, 2004 Dr. Marinello noted treating appellant for pain of the right side of the neck and diagnosed muscle strain of the trapezius. Appellant submitted a report from Dr. Holmblad dated July 6, 2004, who noted a history of appellant's medical treatment commencing with an initial evaluation on January 20, 2004 where appellant reported that he hurt his left knee at work four weeks previously. He noted that an MRI scan revealed a tear of the medial meniscus and on April 13, 2004, appellant underwent arthroscopic surgery. Dr. Holmblad opined that "[appellant] did have an internal derangement of the left knee from the injury of December 15, 2003." However, he noted that the plartis tendon that occurred subsequently could not be related to the work injury. He further opined that "It is felt it is related to compensation injury of December 15, 2003 being the initial cause of the pathology." In a return to work slip dated July 12, 2004, Dr. Williams indicated that appellant could return to full duty on July 19, 2004. In a June 18, 2005 report, Dr. Williams noted a history of appellant's work injury of December 2003 and subsequent treatment by Drs. Marinello and Holmblad. He noted treating appellant on June 1, 2005 when he presented with minimal knee symptoms. Dr. Williams opined that appellant "had an injury that occurred in December 2003 on the job from which he developed a torn medial meniscus and aggravation of an underlying arthritic condition."

By decision dated October 26, 2005, the Office denied modification of the prior decision.

LEGAL PRECEDENT

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 filed within the applicable time limitation 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.¹

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been

¹ Gary J. Watling, 52 ECAB 357 (2001).

established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.² The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.³

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 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.⁴ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁵

ANALYSIS

The Board finds that the December 15, 2003 incident, where a truck door struck appellant's left knee, occurred as alleged. The Board finds, however, that the medical evidence is insufficient to establish that appellant sustained a left knee injury causally related to the December 15, 2003 incident.

Appellant submitted reports from Dr. Marinello dated October 29, 1993 to December 23, 2003, which noted that appellant was treated for various conditions. However, these medical records are of no value in establishing appellant's claim as they predate the claimed injury of December 15, 2003 to the left knee and generally pertain to parts of the body other than the left knee.

The medical records submitted most contemporaneously with the date of the alleged injury, specifically notes dated December 23, 2003, from Dr. Marinello, failed to mention a left knee injury, rather note that appellant was treated for anxiety due to increased stress at work. Other reports from Dr. Marinello from January 16, 2004, noted that appellant sustained an injury on December 15, 2003 while at work when he was climbing into his mail truck and the wind blew the truck door and he twisted his left knee. He diagnosed left knee pain/injury and effusion. The Board finds that, although Dr. Marinello provides, some support for causal

² *Michael E. Smith*, 50 ECAB 313 (1999).

³ *Id.*

⁴ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁵ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

relationship in this report he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's left knee condition and the factors of employment.⁶ For example, the physician did not explain the process by which stepping into a truck would cause the diagnosed condition and why such condition would not be due to any nonwork factors. Therefore, this report is insufficient to meet appellant's burden of proof.

Reports from Dr. Holmblad, dated January 27 to February 23, 2004, failed to reference an injury causing event on December 15, 2003. He also did not provide a rationalized opinion regarding the causal relationship between appellant's left knee injury and the factors of employment believed to have caused or contributed to such condition.⁷ On July 6, 2004 Dr. Holmblad issued a report which noted a history of appellant's injury on December 15, 2003 and subsequent medical treatment and surgery. He opined that "appellant did have an internal derangement of the left knee from the injury of December 15, 2003." Dr. Holmblad further opined that "It is felt it is related to compensation injury of December 15, 2003 being the initial cause of the pathology." Although he supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's left knee condition and the factors of employment.⁸ Therefore, this report is insufficient to meet appellant's burden of proof.

Other reports from Dr. Williams from June 18, 2005, noted a history of appellant's work injury of December 2003 and subsequent treatment by Drs. Marinello and Holmblad. He noted that appellant was last treated on June 1, 2005 and presented with minimal symptoms in his knee, with no swelling and full range of motion. He opined that appellant "had an injury that occurred in December 2003 on the job from which he developed a torn medial meniscus and aggravation of an underlying arthritic condition." The Board finds that, although Dr. Williams supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's left knee condition and the factors of employment and failed to explain why such condition would not be due to any nonwork factors.⁹ Therefore, this report is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence is insufficient as it does not provide an opinion on the causal relationship between appellant's job and his diagnosed left knee injury. Consequently, appellant has not met his burden of proof in establishing his claim.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor

⁶ *Id.*

⁷ *See id.*

⁸ *See id.*

⁹ *See id.*

the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.¹⁰

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a left knee condition causally related to his December 15, 2003 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the October 26, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 1, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

¹⁰ See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).