

**United States Department of Labor  
Employees' Compensation Appeals Board**

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L.G., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Birmingham, AL, Employer )

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**Docket No. 06-1109  
Issued: August 24, 2006**

*Appearances:*  
L.G., *pro se*  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On April 12, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decision dated March 22, 2006 which found that she did not sustain an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof in establishing that she sustained an injury in the performance of duty on January 30, 2006.

**FACTUAL HISTORY**

On February 2, 2006 appellant, then a 24-year-old letter carrier, filed a notice of traumatic injury (Form CA-1) alleging that she injured her right knee on January 30, 2006. She alleged that she was walking and her knee started hurting and gave out while in the performance of duty. The employing establishment controverted the claim and alleged that appellant did not identify any employment factors. She did not stop work.

In an attending physician's report dated February 3, 2006, Dr. Nancy Pajaro, Board-certified in family medicine, diagnosed patellar femoral syndrome of the right knee and checked the box "yes" in response to a question regarding whether she believed the condition found was caused or aggravated by the employment activity. She did not fill in the history of injury portion of the form and advised that appellant could return to regular duty on February 3, 2006.

In a memorandum dated February 8, 2006, the employing establishment controverted the claim and indicated that appellant stated that she injured her knee when she was walking and it started hurting and gave out. The employing establishment provided a February 8, 2006 statement from Derrick King, the supervisor of customer services. Mr. King alleged that on February 2, 2006 appellant informed him that her knee started hurting while delivering mail on January 30, 2006. Mr. King noted that appellant "seemed fine when she came back from the route. She did not mention any pain until the next day. I asked appellant did she bump her knee or did she fall. She told me 'no, it just started hurting.'" Mr. King also alleged that after the conversation, appellant carried her mail as usual. He noted that she had attendance problems.

By letter dated February 13, 2006, the Office advised appellant that additional factual and medical evidence was needed. She was requested to describe in detail how the injury occurred and to provide dates of examination and treatment, a history of injury given by her to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed and a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury. The Office explained that the physician's opinion was crucial to her claim and allotted appellant 30 days within which to submit the requested information.

On February 16, 2006 appellant noted that on January 30, 2006 she was delivering mail to 3104 Carlisle Road and crossed over the grass to 3118 Carlisle Road as she was "getting ready to deliver [their] mail." She alleged that she was "unsure of whether I twist[ed] my right knee or [stumbled] on [a] rock or hole." Appellant indicated that as she was walking, she began to feel pain in her knee and that it started "giving out (losing my balance) in the knee." She continued to deliver mail and when she went home, she noticed that her right knee was swollen. Appellant indicated that she informed her supervisor, Mr. King, the next day.

The Office subsequently received copies of modified duty offers which were accepted by appellant on February 25 and March 13, 2006. The Office also received disability certificates from Dr. Pajaro advising that she was under her care from February 27 to 28, 2006 and could return to work on March 1, 2006 and a March 13, 2006 disability certificate indicating that appellant was under her care from March 13 to 14, 2006 and could return on March 14, 2006. The Office also received several physical therapy notes.

In reports dated March 13, 2006, Dr. Pajaro noted clinical findings which included patellar tenderness, but she did not provide a diagnosis. She indicated that appellant could not perform full duty and prescribed restrictions for her.

By decision dated March 22, 2006, the Office denied appellant's claim on the grounds that she did not establish an injury as alleged. The Office found that the evidence was insufficient to establish that the events occurred as alleged. Further, the Office found that the

medical evidence was insufficient to establish that appellant's condition was caused by employment duties.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 timely filed within the applicable time limitation period of the Act<sup>2</sup> and that an injury was sustained in the performance of duty.<sup>3</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

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 he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>5</sup> 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>6</sup>

### **ANALYSIS**

Appellant alleged that she twisted her right knee while delivering mail on January 30, 2006. There is no dispute that she was delivering mail on January 30, 2006. The record reflects that appellant initially stated that she was walking and her right knee started hurting and gave out. When the Office requested additional information in its February 13, 2006 letter, appellant provided a detailed explanation in her February 16, 2006 response. Appellant stated that she was delivering mail to 3104 Carlisle Road and crossed over the grass to bring the mail to 3118 Carlisle Road. She explained that she was unsure whether she twisted her knee or stumbled on a rock or a hole; however, she continued towards the house and noted that her knee became painful and gave out, but she continued to deliver the mail. When she went home that night, her right knee was swollen and she reported it to her supervisor the next day. Although the employing establishment controverted the claim and alleged that appellant seemed fine after delivering her route, the Board finds that there are no significant discrepancies in appellant's account of how the claimed injury occurred. While appellant indicated that she was unsure as to whether she twisted her knee by stumbling on a rock or a hole, she consistently maintained that she was walking while delivering mail in the performance of duty when her knee started hurting

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Id.*

and gave out. The Board notes that an injury does not have to be confirmed by eyewitnesses in order to establish the fact that the employee sustained an injury in the performance of duty, but the employee's statements must be consistent with the surrounding facts and circumstances and her subsequent course of action. An employee has not met her burden of proof when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.<sup>7</sup> In this case, there are not such inconsistencies in appellant's statement as to cast serious doubt upon the validity of the claim. The Board finds that the January 30, 2006 incident occurred as alleged.

However, the medical evidence is insufficient to establish that the accepted employment incident caused an injury. The medical evidence contains no firm diagnosis, no rationale and no explanation of the mechanism of injury. Appellant provided several reports from Dr. Pajaro. However, she did not provide a rationalized opinion addressing whether any diagnosed condition was caused or aggravated by the incident at work on January 30, 2006.

In a February 3, 2006 report, Dr. Pajaro diagnosed patellar femoral syndrome of the right knee and checked the box "yes" in response to a question regarding whether she believed the condition found was caused or aggravated by the employment activity. However, the checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.<sup>8</sup> In reports dated March 13, 2006, Dr. Pajaro noted clinical findings which included patellar tenderness, but she did not diagnose a specific condition or specifically address causal relationship. Dr. Pajaro's report lacks probative value in that it did not provide a firm diagnosis, is vague and failed to explain the causal relationship between appellant's condition and the January 30, 2006 incident.<sup>9</sup> Causal relationship must be substantiated by reasoned medical opinion evidence.<sup>10</sup>

Because the medical reports submitted by appellant do not address how the January 30, 2006 incident caused or aggravated a right knee injury, these reports are of limited probative value<sup>11</sup> and are insufficient to establish that the January 30, 2006 employment incident caused or aggravated a specific injury.<sup>12</sup>

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

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<sup>7</sup> *Juanita Pitts*, 56 ECAB \_\_\_\_ (Docket No. 04-1527, issued October 28, 2004)

<sup>8</sup> *Linda Thompson*, 51 ECAB 694 (2000); *Calvin E. King*, 51 ECAB 394 (2000).

<sup>9</sup> *See Michael E. Smith*, 50 ECAB 313 (1999).

<sup>10</sup> *Roy L. Humphrey*, 57 ECAB \_\_\_\_ (Docket No. 05-1928, issued November 23, 2005).

<sup>11</sup> *See Linda I. Sprague*, 48 ECAB 386, 389-90 (1997).

<sup>12</sup> On appeal, appellant asserts that her claim should have been handled as a recurrence of disability. However, the record before the Board does not contain a decision pertaining to a claim for a recurrence of disability or any development of any other claimed injury. Consequently, the Board has no jurisdiction over any other issue. *See* 20 C.F.R. § 501.2(c) (the Board's jurisdiction is limited to reviewing final decisions of the Office).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 22, 2006 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: August 24, 2006  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board