

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

B.G., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Archibald, LA, Employer**

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**Docket No. 07-620
Issued: May 23, 2007**

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 3, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' November 29, 2006 merit decision denying her claim for a January 5, 2006 injury. 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 met her burden of proof to establish that she sustained an injury in the performance of duty on January 5, 2006.

FACTUAL HISTORY

On June 1, 2006 appellant, then a 52-year-old postmaster, filed a traumatic injury claim alleging that she sustained torn ligaments in her left knee due to falling down stairs at work on January 5, 2006. She stopped work on May 1, 2006 and returned to light-duty work on May 24, 2006.

On January 9, 2006 a physician with an illegible signature noted that appellant complained of a swollen left knee. The diagnosis contained on the report is illegible. On April 5, 2006 Dr. Randolph H. Taylor, an attending Board-certified neurosurgeon, noted that appellant reported falling down stairs on an unspecified date with her left knee hyperflexed.¹ He stated that the findings of a January 9, 2006 x-ray testing showed mild osteoarthritis of the left medial, lateral and patellofemoral joints. Dr. Taylor indicated that appellant complained of pain, tingling, burning, and weakness in her left leg and diagnosed medial meniscus tear and pain of the left knee.²

Dr. Taylor arranged for magnetic resonance imaging testing to be performed on April 13, 2006 and the findings showed a tear of the posterior horn of the left medial meniscus. On April 27, 2006 Dr. Taylor noted that left knee surgery was scheduled for May 1, 2006. He performed a partial medial meniscectomy and debridement of the anterior cruciate ligament of the left knee on May 1, 2006. On May 23, 2006 Dr. Taylor noted that appellant reported falling down stairs at work on January 9, 2006 and indicated that she had a left medial meniscus and cruciate tears and left knee plica syndrome due to the reported work injury.³ He recommended various work restrictions including lifting no more than 40 pounds.

In a September 28, 2006 letter, the Office requested that appellant submit additional factual and medical evidence in support of her claim. Appellant resubmitted a copy of the January 9, 2006 report.

In a November 29, 2006 decision, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained an injury in the performance of duty on January 5, 2006.⁴

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁵ has the burden of establishing the essential elements of 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, that an injury was sustained in the performance of duty as alleged and that any disability and specific condition for which compensation is claimed are causally related to the employment injury.⁶ These are the essential

¹ The time of symptom onset was identified as "January 2006."

² In later reports, Dr. Taylor added the diagnosis of left knee osteoarthritis.

³ Dr. Taylor did not write out these conditions on his report but rather wrote their diagnosis codes.

⁴ The Office accepted that appellant established an employment incident in the form of falling down stairs on January 5, 2006.

⁵ 5 U.S.C. §§ 8101-8193.

⁶ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

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.⁸ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁹ 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.¹⁰

ANALYSIS

Appellant claimed that she sustained torn ligaments in her left knee due to falling down stairs at work on January 5, 2006. The Board finds that, although appellant established an employment incident in the form of falling down stairs on January 5, 2006, she did not submit sufficient medical evidence to establish that she sustained an injury in the performance of duty on January 5, 2006.

Appellant submitted a May 23, 2006 report in which Dr. Taylor, an attending Board-certified neurosurgeon, noted that she reported falling down stairs at work on January 9, 2006. Dr. Taylor provided work restrictions and indicated that appellant had a left medial meniscus tear and left knee plica syndrome due to the reported work injury. In addition to the fact that Dr. Taylor incorrectly listed the date of injury, the report is of limited probative value on the relevant issue of the present case in that he did not provide adequate medical rationale in support of his conclusion on causal relationship.¹¹ He did not describe the employment incident in any detail or explain how it could have caused the claimed employment injury. Dr. Taylor did not provide any notable medical history of appellant's left knee condition or explain how she was able to work between January 5 and May 1, 2006. Such medical rationale is especially necessary as a January 9, 2006 medical report did not denote any mechanism of injury and there is no medical evidence from the period between early January 2006 and early April 2006. Therefore, there is no medical evidence bridging the date of the accepted employment incident to the period when it was first reported that appellant had a left medial meniscus tear.

⁷ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

⁸ *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).

⁹ *John J. Caralone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

¹⁰ *Elaine Pendleton*, *supra* note 6; 20 C.F.R. § 10.5(a)(14).

¹¹ 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).

The record contains other reports of Dr. Taylor detailing appellant's left knee condition, including a report of May 1, 2006 surgery, but none of these reports related her left knee condition to the accepted January 5, 2006 employment incident. Appellant was provided an opportunity to provide additional evidence in support of her claim but failed to submit probative medical evidence relating her claimed left knee condition to the January 5, 2006 employment incident.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty on January 5, 2006.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' November 29, 2006 decision is affirmed.

Issued: May 23, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board