United States Department of Labor
Employees' Compensation Appeals Board

H.N., Appellant	)	
and	)	**Docket No. 07-2232**
	)	**Issued: February 7, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Lafayette, LA, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
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 September 4, 2007 appellant filed a timely appeal from February 1 and August 3, 2007 decisions of the Office of Workers' Compensation Programs denying her claim for an injury on December 15, 2006. 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 sustained an injury to her knees on December 15, 2006 while in the performance of duty.

FACTUAL HISTORY

On December 19, 2006 appellant, then a 43-year-old letter carrier, filed a claim alleging that she injured both knees on December 15, 2006 when she tripped on an uneven driveway surface and almost fell.

On December 27, 2006 the Office requested additional evidence, including a medical report containing a diagnosis of appellant's condition and medical rationale explaining how the condition was causally related to the December 15, 2006 tripping incident.

In reports dated December 19, 2006, Dr. O.E. Reavill, a specialist in pain management and an employing establishment physician, provided findings on physical examination. He indicated that appellant had bilateral knee pain resulting from the December 15, 2006 work incident. However, Dr. Reavill did not provide a diagnosis. He stated that x-rays and findings on physical examination were normal. Appellant could perform her regular work.

By decision dated February 1, 2007, the Office denied appellant's claim on the grounds that the medical evidence did not establish that she sustained an injury to her knees on December 15, 2006 causally related to her employment.

Appellant requested a hearing. A telephonic hearing conducted by an Office hearing representative was held on June 5, 2007.

Appellant submitted additional medical evidence following the hearing. In notes dated October 3 and November 16, 2006, Dr. Harold Granger, an attending orthopedic surgeon, provided findings on physical examination and diagnosed a right knee medial meniscus tear.[1] On February 8 and 12, 2007 Dr. Theodore Knatt, an orthopedic surgeon, noted that appellant had bilateral knee pain which she attributed to a tripping incident at work. He did not provide a diagnosis or explain how her condition was causally related to the December 15, 2006 incident. Dr. Knatt indicated that appellant was disabled beginning January 6, 2007 but could return to full duty on February 16, 2007. On February 13, 2007 he diagnosed bilateral patellar chondromalacia. Appellant also submitted reports from a physician's assistant.

By decision dated August 3, 2007, the Office hearing representative affirmed the February 1, 2007 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden to establish 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, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[3]

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

[1] A January 12, 2007 magnetic resonance imaging (MRI) scan report indicated that appellant had a tear of the posterior horn of the right knee medial meniscus. She testified at the hearing that on August 2, 2006 she underwent surgery to repair a right knee partial medial meniscus tear.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Steven S. Saleh,* 55 ECAB 169 (2003); *Elaine Pendleton,* 40 ECAB 1143 (1989).

established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.[4] Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.[5] An employee may establish that the employment incident occurred as alleged but fail to show that her disability or condition relates to the employment incident.

To establish a causal relationship between a claimant's condition and any attendant disability claimed and the employment event or incident, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's 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.[6]

ANALYSIS

The Board finds that the evidence is insufficient to establish that appellant sustained an injury to her knees on December 15, 2006 while in the performance of duty.

In October and November 2006 clinical notes, Dr. Granger provided findings on physical examination and diagnosed a right knee medial meniscus tear. These notes preceded the December 15, 2006 work incident. They note a preexisting right knee condition for which appellant underwent surgery on August 2, 2006. Consequently, these notes are not sufficient to establish that appellant sustained a work-related injury to her knees on December 15, 2006.

Dr. Reavill indicated that appellant had bilateral knee pain resulting from the December 15, 2006 incident at work. He stated that x-rays and findings on physical examination were normal and appellant could perform her regular work. Dr. Reavill did not provide a diagnosis of her condition or any medical rationale explaining how appellant's bilateral knee pain was causally related to the December 15, 2006 work incident. Therefore, his reports are not sufficient to establish that appellant sustained a bilateral knee injury causally related to the December 15, 2006 tripping incident at work.

On February 8 and 12, 2007 Dr. Knatt noted that appellant had bilateral knee pain which she attributed to a tripping incident at work. He did not provide a diagnosis or explain how her condition was causally related to the December 15, 2006 work incident. On February 13, 2007 Dr. Knatt diagnosed bilateral patellar chondromalacia. However, he did not provide any medical rationale explaining how this condition was causally related to the December 15, 2006 tripping

[4] *John J. Carlone*, 41 ECAB 354 (1989).

[5] *Shirley A. Temple*, 48 ECAB 404 (1997).

[6] *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, *supra* note 5.

incident. Additionally Dr. Knatt's reports are not contemporaneous with the claimed date of injury. He examined appellant approximately two months later. As noted, Dr. Reavill examined appellant four days after the December 15, 2006 work incident and found no injury. Moreover he did not provide a full history pertaining to her right knee. For these reasons, the reports from Dr. Knatt are not sufficient to establish that appellant sustained an injury to her knees as a result of the December 15, 2006 tripping incident.

The reports from the physician's assistant are of no probative value. Registered nurses, licensed practical nurses and physician's assistants are not "physicians" as defined under the Act and their opinions are of no probative value.[7] Therefore, these reports are insufficient to establish a work-related injury on December 15, 2006.

Appellant failed to provide rationalized medical evidence establishing that she sustained an injury to her knees causally related to the December 15, 2006 tripping incident. No diagnosis was provided by the physician that examined her at the time of the claimed injury. Dr. Reavill indicated that x-rays and physical findings were normal and appellant could return to her regular work. Dr. Knatt failed to provide a rationalized medical explanation as to how appellant's bilateral patellar chondromalacia was causally related to the December 15, 2006 tripping incident at work. Therefore, appellant did not meet her burden of proof. The Office properly denied her claim.

CONCLUSION

The Board finds that appellant failed to establish that she sustained an injury to her knees on December 15, 2006 while in the performance of duty.

[7] *See* 5 U.S.C. § 8101(2) which provides: "physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law;" *see also Roy L. Humphrey*, 57 ECAB ___ (Docket No. 05-1928, issued November 23, 2005).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 3 and February 1, 2007 are affirmed.

Issued: February 7, 2008
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