

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

---

**R.F., Appellant**

**and**

**DEPARTMENT OF ARMY, CORPUS CHRISTI  
ARMY DEPOT, Corpus Christi, TX, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 08-908  
Issued: September 17, 2008**

*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 February 7, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated January 22, 2008, which denied his claim for a traumatic injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant met his burden of proof in establishing that he sustained a right knee injury on July 19, 2007.

**FACTUAL HISTORY**

On July 24, 2007 appellant, then a 34-year-old sheet metal mechanic, filed a claim alleging that on July 19, 2007 he injured his right knee when he struck a toolbox latch and fell. He stopped work on July 20, 2007. On the Form CA-1 Steve Garcia, appellant's coworker, noted witnessing him strike a gray electrical box latch.

In an undated statement, appellant's supervisor advised that he did not report to work on July 20, 2007 due to complaints of swelling and pain of his right knee. On July 23, 2007 appellant was seen at the employing establishment dispensary and referred to the Veterans Administration Medical Center for further treatment. The supervisor noted that appellant returned to work with a knee brace. Appellant previously underwent surgery on the right knee in 1998 while in the Army.

By letter dated August 7, 2007, the Office advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a comprehensive medical report from his treating physician which included a reasoned explanation as to how the work incident caused his claimed knee condition.

Appellant submitted a July 23, 2007 report from Dr. Roger G. Ramon, a Board-certified family practitioner, who reported hitting his right knee on a corner box while at work which caused pain and swelling. Dr. Ramon noted that physical examination of the right knee revealed no effusion, rubor or calor no ecchymosis, a full range of motion for extension and no crepitus. He diagnosed left knee pain status post-trauma and prescribed a knee brace. Dr. Ramon noted that appellant could not return to regular duties at work until he was cleared by his orthopedic physician.

In a decision dated September 7, 2007, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his knee condition was caused by the July 19, 2007 incident.

Appellant requested reconsideration and submitted medical reports from Dr. Charles S. Clark, a Board-certified orthopedic surgeon. On September 11, 2007 Dr. Clark noted that appellant first had right knee problems in 1998 for which he underwent surgery to repair a chipped patella. Appellant had no further problems until July 19, 2007 when he ran into a latch of a large heavy box while at work and then fell forward striking the anterior aspect of the knee against the ground. He experienced an onset of pain and swelling. Dr. Clark noted findings upon physical examination of pain on patellofemoral manipulation, no crepitus, no demonstrable instability, excellent strength on active extension of the knee against resistance and normal x-rays of the right knee. He recommended physical therapy and a magnetic resonance imaging (MRI) scan. Dr. Clark opined that, "if the MRI [scan] is normal, I think we can conclude that his symptoms are secondary to just contusion and should resolve" with time and exercise. On September 18, 2007 he noted that the right knee MRI scan revealed no evidence of meniscal or cruciate injury, rather, thickening of the proximal patella tendon, tendinosis and a nine millimeter ganglion cyst on the anterior ligament of the lateral meniscus. Dr. Clark recommended physical therapy and anti-inflammatory medication.

On October 16, 2007 Dr. Clark treated appellant for persistent pain to the knee occurring on flexion and while climbing stairs. Physical examination revealed significant limitation of motion on flexion, pain, crepitus of the patellofemoral and atrophy. Dr. Clark diagnosed residual tendinitis and restriction of motion secondary to prolonged immobilization. He stated that "usually these types of situations" resolve with physical therapy "but his workmen's compensation carrier has denied this repetitively." Dr. Clark returned appellant to work full duty with a restriction of no squatting. On November 27, 2007 appellant returned for treatment of right knee pain.

Dr. Clark noted clinical findings of significant limitation of motion, suprapatellar tenderness over the patella tendon and atrophy. He opined that appellant's symptoms would have resolved if the Office had authorized physical therapy; however, without the recommended physical therapy he was left with residual limitations in flexion and atrophy of the right knee. Dr. Clark noted that appellant reached maximum medical improvement.

In a decision dated January 22, 2008, the Office denied modification of the September 7, 2007 decision.

### **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 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.<sup>2</sup>

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 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.<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> The weight of medical evidence is determined by its reliability, its probative

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>3</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>4</sup> *Id.*

<sup>5</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>6</sup>

### ANALYSIS

The evidence establishes that the July 19, 2007 incident occurred as appellant alleged. The Board finds, however, that the medical evidence is insufficient to establish that he sustained a right knee injury causally related to the July 19, 2007 incident. On August 7, 2007 the Office advised appellant of the medical evidence needed to establish his claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated his claimed condition.

Appellant submitted a report from Dr. Ramon, dated July 23, 2007, who treated appellant for an injury to his right knee. He reported hitting his right knee on a corner of a box while at work which caused pain and swelling. Dr. Ramon diagnosed left knee pain status post-trauma and prescribed a knee brace. His report is insufficient to establish the claim as he appears merely to be repeating the history of injury as reported by appellant without providing his own opinion regarding whether appellant's condition was work related. To the extent that Dr. Ramon is providing his own opinion, he failed to provide a rationalized opinion regarding the causal relationship between appellant's condition and the factors of employment believed to have caused or contributed to such condition.<sup>7</sup>

Appellant submitted a report from Dr. Clark, dated September 11, 2007, who treated him for a right knee injury sustained at work on July 19, 2007. He reported that he hit a latch on a heavy box and fell striking the anterior aspect of his knee. Dr. Clark noted appellant's history was significant for a right knee injury sustained while in the military for which he underwent knee surgery in 1998 to repair a chipped patella. He indicated that the x-rays of the right knee were normal and recommended physical therapy. However, Dr. Clark failed to provide a specific and rationalized opinion regarding the causal relationship between appellant's right knee injury and the factors of employment believed to have caused or contributed to such condition.<sup>8</sup> For example, he did not explain the process by which striking his right knee against a latch would cause the diagnosed condition and why such condition would not be due to nonwork factors such as appellant's 1998 right knee injury and subsequent surgery to repair a chipped patella. Therefore, this report is insufficient to meet appellant's burden of proof.

Other reports from Dr. Clark dated September 18 to November 27, 2007, noted appellant's complaints of persistent pain of the right knee with significant limitation of motion, crepitus of the patellofemoral and atrophy. He indicated that the MRI scan of the right knee revealed thickening of the proximal patella tendon, tendinosis and a nine millimeter ganglion cyst on the anterior ligament of the lateral meniscus. Dr. Clark diagnosed residual tendinitis and

---

<sup>6</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>7</sup> *Jimmie H. Duckett*, *supra* note 6.

<sup>8</sup> *Id.*

restriction of motion secondary to prolong immobilization and opined that appellant reached maximum medical improvement. However, he failed to provide a history of injury<sup>9</sup> and did not provide a specific opinion on the causal relationship between appellant's July 19, 2007 employment incident and his diagnosed residual tendinitis, crepitus of the patellofemoral and atrophy.<sup>10</sup> Instead, Dr. Clark appears to relate appellant's continuing symptoms to the Office's failure to authorize physical therapy. However, since appellant has not established an employment-related condition, the Office had no basis for approving such therapy.<sup>11</sup> Consequently, this medical evidence is not sufficient to meet appellant's burden of proof.

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 the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>12</sup> Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied his claim for compensation.

### CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained right knee injury causally related to his July 19, 2007 employment incident.<sup>13</sup>

---

<sup>9</sup> See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

<sup>10</sup> *A.D.*, 58 ECAB \_\_\_\_ (Docket No. 06-1183, issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>11</sup> See *Kennett O. Collins, Jr.*, 55 ECAB 649, 654 (2004) (while the Office is obligated to pay for treatment of employment-related conditions, the employee has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition).

<sup>12</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>13</sup> After the January 22, 2008 Office decision appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; see 20 C.F.R. § 501.2(c).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 22, 2008 and September 7, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 17, 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