



## **FACTUAL HISTORY**

On August 30, 2006 appellant, then a 41-year-old city carrier, filed a traumatic injury claim assigned number xxxxxx203, alleging that on August 29, 2006 she experienced swelling and pain in her right knee while going up and down steps at work.<sup>1</sup>

Appellant submitted medical reports dated September 1 and 20 and October 30, 2006 from Dr. James J. Murphy, an attending Board-certified orthopedic surgeon, who stated that appellant could perform sedentary work with restrictions. In the September 1, 2006 report, Dr. Murphy diagnosed sprained knee. In treatment notes dated September 1 and 20 and October 30, 2006, he stated that appellant suffered from degenerative joint disease. In an October 19, 2006 authorization for examination and/or treatment, Dr. Murphy provided a date of injury as August 29, 2006. He indicated with an affirmative mark that appellant's right knee sprain was causally related to an employment activity. In reports dated December 27, 2006, Dr. Murphy stated that appellant sustained an ACL tear/rupture.

By letter dated February 22, 2007, the Office advised appellant that the evidence submitted was insufficient to establish her claim. It addressed the additional factual and medical evidence she needed to submit, including a rationalized medical report from an attending physician which described her symptoms, results of examination and tests, diagnosis, treatment provided, the effect of treatment and opinion with medical reasons on whether exposure or incidents in appellant's federal employment contributed to her condition.

In a December 27, 2006 treatment note and February 28, 2007 report, Dr. Murphy addressed appellant's right knee problems and plan to perform ACL reconstruction.

On March 19, 2007 appellant stated that she previously underwent right knee surgery and that she resumed her letter carrier duties until August 29, 2006. After experiencing severe pain while climbing stairs on her route on that date, she went home and put ice on her knee. Appellant experienced swelling again on the next day while walking and climbing stairs on her route.

By decision dated April 4, 2007, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that the claimed condition was causally related to the accepted August 29, 2006 employment incident. In an April 10, 2007 letter, appellant requested an oral hearing before an Office hearing representative.

In treatment notes dated December 27, 2006 and February 28, 2007 and an April 27, 2007 report, Dr. Murphy stated that appellant suffered from an ACL deficiency in the right knee.

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<sup>1</sup> The record reveals that, prior to the instant claim, appellant filed a claim assigned number xxxxxx947, alleging that on January 16, 2004 she sustained a right knee injury when she fell to the ground, resulting in a tear of the right anterior cruciate ligament (ACL) and medial and lateral meniscus, for which she underwent surgery on March 16, 2004. The Office subsequently denied her claim as not employment related.

Following an August 28, 2007 hearing, appellant submitted Dr. Murphy's September 5, 2007 report which stated that appellant was status post revision ACL reconstruction.<sup>2</sup> Dr. Murphy indicated that the surgery was due to an ACL deficient knee. He stated that appellant suffered from pain and instability for as long as he had been evaluating her in his clinic. Appellant experienced increasing difficulty with performing her job with an unstable knee. Dr. Murphy reviewed a description of appellant's job which required climbing stairs, getting in and out of vehicles, walking and walking on uneven terrain in all weather conditions. He opined that her work duties contributed to the exacerbation of her knee problems which necessitated her recent surgery.

In an August 17, 2007 report, Dr. Murphy stated that appellant would be able to return to work soon following her revision knee surgery. He requested that the employing establishment accommodate her need to limit the number of stairs that she used on her routes.

In a November 15, 2007 decision, an Office hearing representative set aside the April 4, 2007 decision and remanded the case to the Office. He found that, although Dr. Murphy's September 5, 2007 report was not sufficiently rationalized to meet appellant's burden of proof to establish that she sustained a right knee injury causally related to the accepted August 29, 2006 employment incident, it was uncontroverted and raised an inference of causal relationship sufficient to require further development by the Office. On remand, the hearing representative instructed the Office to refer appellant, along with a statement of accepted facts and the case record to an appropriate specialist for a rationalized opinion on whether she sustained a right knee injury due to the accepted employment incident.

On December 17, 2007 the Office referred appellant to Dr. Theodore J. Suchy, a Board-certified orthopedic surgeon, for a second opinion medical examination. In a January 7, 2008 report, Dr. Suchy reviewed a history of the August 29, 2006 employment incident and appellant's medical treatment. On physical examination, he reported a well-healed and nontender midline scar of the right knee. Dr. Suchy stated that appellant had no calf pain or tenderness. Appellant's circulation, motion and sensation were intact distally. She had full range of motion of the ankle. Full extension to flexion of the stable right knee was 125 degrees. A drawer and Lachman's test were negative. Collateral ligaments were intact to varus and valgus stress. Circumferential measurements included 31 centimeters of the right calf, 42.5 centimeters of the left calf, 45 centimeters of the right knee, 42 centimeters of the left knee, 55 centimeters of the right thigh and 56 centimeters of the left thigh. There was full range of motion of the bilateral hips symmetrically. On x-ray examination, Dr. Suchy reported advanced degenerative changes in the left knee with almost complete loss of medial compartment space.<sup>3</sup> He stated that there appeared to be evidence of chronic degenerative changes with osteophyte formation, specifically patellofemoral articulation and medial compartment.

Dr. Suchy found that appellant was status post ACL reconstruction twice with advanced degenerative joint disease of the right knee. He found no objective findings of instability.

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<sup>2</sup> On July 5, 2007 appellant underwent right knee surgery.

<sup>3</sup> It appears that Dr. Suchy inadvertently stated that appellant sustained advanced degenerative changes in the left knee rather than in the right knee as he subsequently diagnosed her as having this condition in the right knee.

Dr. Suchy opined that appellant's right knee condition was not work related. He explained that her original injury was an ACL tear that was not work related. Dr. Suchy stated that there was no contributing factor from appellant's light-duty work<sup>4</sup> or aggravation or acceleration of her ACL tear. He noted her complaints of pain with walking and climbing stairs which he characterized as normal daily activities. Dr. Suchy opined that appellant's work in no way accelerated her preexisting condition. He stated that her condition was based on instability she experienced which necessitated prior hamstring reconstruction and then subsequent revision of the ACL reconstruction. Dr. Suchy further opined that appellant was permanently disabled from walking any length of time and using stairs due to significant patellofemoral arthritis demonstrated on x-rays. Appellant was also permanently restricted from stair and ladder climbing, walking for longer than 30 minutes at any given time, squatting and kneeling. Dr. Suchy concluded that the natural course of the degenerative process would eventually progress and require appellant to undergo knee arthroplasty.

By decision dated April 13, 2008, the Office again denied appellant's claim. The medical evidence failed to establish that she sustained a right knee injury causally related to the accepted August 29, 2006 employment incident based on Dr. Suchy's January 7, 2008 opinion.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>5</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 applicable time limitation; that an injury was sustained while 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.<sup>6</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury of an occupational disease.<sup>7</sup>

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 or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>8</sup> Second, the employee must submit

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<sup>4</sup> Following her July 5, 2007 right knee surgery, appellant returned to light-duty work on September 21, 2007.

<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 6.

<sup>8</sup> *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>9</sup>

### ANALYSIS

The record supports that on August 29, 2006 appellant walked up and down stairs while delivering mail on her route. The Office, however, found that the medical evidence was insufficient to establish that the accepted employment incident caused a right knee injury based on the medical opinion of Dr. Suchy, an Office referral physician. The Board finds that appellant has failed to establish that she sustained a right knee injury in the performance of duty on August 29, 2006, as alleged.

In a January 7, 2008 report, Dr. Suchy reviewed a history of the August 29, 2006 employment incident. He opined that her right knee condition was not work related. Dr. Suchy stated that her original injury was an ACL tear that was not work related. He also stated that there was no contributing factor from appellant's light-duty work, aggravation or acceleration of her preexisting ACL tear. Dr. Suchy noted her complaints of pain with walking and climbing stairs which he characterized as normal daily activities. He further related that appellant's condition was based on instability she experienced which necessitated prior hamstring reconstruction and then subsequent revision of the ACL reconstruction. Dr. Suchy concluded that the natural course of the degenerative process would eventually progress and require appellant to undergo knee arthroplasty.

The Board finds that Dr. Suchy's opinion is sufficiently well rationalized and based upon a proper factual background such that it is the weight of the evidence on the issue of whether appellant sustained a right knee condition causally related to the August 29, 2006 employment incident. The Board has noted that in assessing medical evidence the weight of such evidence is determined by its reliability, its probative value and its convincing quality and the factors which enter in such an evaluation include the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>10</sup> The Board has carefully reviewed Dr. Suchy's January 7, 2008 report and finds that it has such reliability, probative value and convincing quality. Prior to reaching his conclusions, Dr. Suchy extensively detailed appellant's factual and medical history and reported the findings based on his review of appellant's medical records. He provided a proper analysis of the factual and medical history and objective test findings of record and reached conclusions regarding appellant's condition which comported with this analysis.

In his several reports, although Dr. Murphy noted appellant's employment duties and concluded her right knee problem was employment related, he provided no rationale explaining how her employment either caused or aggravated the degenerative arthritis, knee strain or torn

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<sup>9</sup> *T.H.*, 59 ECAB \_\_\_\_ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

<sup>10</sup> *See Melvina Jackson*, 38 ECAB 443, 449-50 (1987); *Naomi Lilly*, 10 ECAB 560, 573 (1959).

ACL. As his reports contained statements without explaining the mechanism of the injury and its relationship to appellant's employment duties, they were insufficient to establish her claim.

The Board finds that appellant has not submitted rationalized medical evidence establishing that her claimed right knee condition was causally related to the August 29, 2006 employment incident. Appellant did not meet her burden of proof.

**CONCLUSION**

The Board finds that appellant has failed to establish that she sustained a right knee injury while in the performance of duty on August 29, 2006, as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 13, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 6, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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