United States Department of Labor
Employees' Compensation Appeals Board

M.L., Appellant	)	
and	)	**Docket No. 08-2555**
	)	**Issued: June 4, 2009**
DEPARTMENT OF THE ARMY,	)	
Fort Huachuca, AZ, Employer	)	

Appearances:
Appellant, 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
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On September 24, 2008 appellant timely appealed a September 10, 2008 merit decision of the Office of Workers' Compensation Programs denying her traumatic injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3 the Board has jurisdiction over the merits of appellant's claim.

ISSUE

The issue is whether appellant established that she sustained an injury in the performance of duty on June 24, 2008.

FACTUAL HISTORY

On August 6, 2008 appellant, a 47-year-old computer scientist, filed a traumatic injury claim (Form CA-1) for bruised knees, bruised right elbow and a bruised thumb. She alleged that, on June 24, 2008 she missed a step and fell forward, producing bruises and swelling in both knees, her elbow and her thumb as she was leaving the "CMET" through the back door.

Appellant submitted no evidence in support of her claim, and by letter dated August 8, 2008, the Office notified her that the evidence of record was insufficient to support her claim. It requested that appellant submit comprehensive medical evidence in support of her claim.

Appellant submitted an August 25, 2008 medical report signed by Dr. David P. Klein, a Board-certified diagnostic radiologist, who reported findings following bilateral radiographic examination of appellant's knees. Dr. Klein reported that x-rays revealed mild to moderate degenerative bony spurring involving both the medial, lateral and patellofemoral compartments. He observed degenerative changes in both knees.

In an August 25, 2008 medical note, Dr. Laurence Susini, a Board-certified orthopedic surgeon, noted that appellant has a medical history of knee arthritis, for which he treated her in 2007, though she did not take the prescribed medication. He reported that appellant has trace effusion on the right, one-plus effusion on the left, and that appellant had good range of motion, but marked patellofemoral crepitation. Dr. Susini diagnosed preexisting patellofemoral degenerative joint disease with a flare up of symptoms since the June 24, 2008 incident. A medical report (Form CA-16) was issued authorizing treatment for an injury to appellant's right knee, elbow and shoulder.[1]

By decision dated September 10, 2008, the Office denied appellant's claim because the evidence of record was insufficient to establish that she sustained an injury as defined by the Federal Employees' Compensation Act.

LEGAL PRECEDENT

An employee seeking benefits under the Act[2] 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, 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. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.[3]

Section 10.5(ee) of Office regulations defines a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift.[4] To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether fact of injury is established. First, an

[1] The Board notes that the Office issued a Form CA-16. A properly executed Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim. *See Elaine M. Kreymborg*, 41 ECAB 256, 259 (1989). The Form CA-16 issued to appellant however was not completed to authorize treatment by any specific provider and therefore was not properly executed.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Gary J. Watling*, 52 ECAB 278 (2001).

[4] 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB 530 (2004).

employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.[5]

Causal relationship is a medical issue and the medical evidence opinion required to establish a causal relationship is rationalized medical evidence.[6] Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.[7] 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.[8] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[9]

ANALYSIS

After initial development of the claim the Office accepted that the incident occurred as alleged. It denied appellant's claim on the grounds that she had not established an injury as a result of the incident. The Board finds that the medical evidence of record is insufficient to establish that appellant sustained an injury in the performance of duty on June 24, 2008.

The relevant medical evidence of record consisted of medical reports and notes from Drs. Klein and Susini. The Board finds that none of these reports contained a rationalized medical opinion concerning the required causal relationship. The Board has consistently held that medical reports lacking a rationale on causal relationship have little probative value.[10] As noted above, a rationalized medical opinion is based on a complete factual and medical background and is supported by medical rationale.[11]

[5] *Gary J. Watling, supra* note 3.

[6] *M.W.*, 57 ECAB 710 (2006).

[7] *D.D.*, 57 ECAB 734 (2006).

[8] *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

[9] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[10] *See Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

[11] *Froilan Negron Marrero*, 33 ECAB 796 (1982).

Moreover, a physician's opinion on the causal relationship between a claimant's disability and an employment injury is not dispositive simply because it is rendered by a physician.[12] The opinion of a physician supporting causal relationship must be based on a complete and accurate medical and factual background, supported with affirmative evidence, and explained by medical rationale.[13]

While Dr. Klein noted x-ray findings of degenerative changes of both knees, his medical reports lack any opinion on the causal relationship between appellant's condition and factors of her federal employment or an employment-related event. As such, they are of limited probative value and insufficient to satisfy appellant's burden.

Similarly, while Dr. Susini diagnosed preexisting patellofemoral degenerative joint disease of both knees, his medical reports and notes lack any opinion on the causal relationship between appellant's alleged injuries and factors of her federal employment. Therefore, they too are of limited probative value and are insufficient to satisfy her burden of proof. Dr. Susini did note that appellant had a flare-up of symptoms since the June incident however the Board has long held that although work activities may produce pain or discomfort revelatory of an underlying condition, this does not raise an inference of causal relationship.[14]

Neither the fact that a disease or condition becomes apparent during a period of employment nor appellant's belief that the disease or condition is caused or aggravated by the conditions of employment is insufficient to establish causal relation.[15] This is a medical issue. As there is no rationalized medical evidence of record establishing that appellant's injuries were caused or aggravated by her federal employment duties, as alleged, the Board finds that she has failed to meet her burden of proof.

CONCLUSION

The Board finds that appellant has not established that she sustained an injury in the performance of duty on June 24, 2008.

[12] *Jean Culliton*, 47 ECAB 728, 735 (1996).

[13] *Robert Broom*, 55 ECAB 339 (2004); *Patricia J. Glenn*, 53 ECAB (2001).

[14] *Gary M. DeLeo*, 56 ECAB 656 (2005).

[15] *See Neal C. Evins*, 48 ECAB 252 (1996); *Ronald M. Cokes*, 46 ECAB 967 (1995). *See also, Edgar G. Maiscott*, 4 ECAB 558 (1952) (holding appellant's subjective symptoms and self-serving declarations do not, in the opinion of the Board, constitute evidence of a sufficiently substantial nature).

ORDER

IT IS HEREBY ORDERED THAT the September 10, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 4, 2009
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board