



reporting the alleged knee injury, he continued to perform his regular duties and failed to provide adequate medical evidence to establish his claim.

By letter dated October 17, 2008, the Office advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a physician's reasoned opinion addressing the relationship of his claimed knee condition and the employment incident.

In a September 12, 2008 report, Dr. L. Don Greenway, a Board-certified orthopedic surgeon, treated appellant for left knee pain, swelling, popping and locking. He reported no specific history of injury or vigorous physical activity as the cause of appellant's left knee pain. Dr. Greenway noted findings upon physical examination of the left knee of normal sensation, range of motion of 110 degrees, tenderness of the medial compartment and no instability. He noted that the left knee x-rays revealed normal bone and joint structure. On September 19, 2008 Dr. Greenway treated appellant for left knee pain and diagnosed tear of the medial meniscus of the left knee joint. He noted that a magnetic resonance imaging (MRI) scan of the left knee revealed a tear of the medial meniscus. On September 23, 2008 Dr. Greenway performed arthroscopy of the left knee joint, medial and lateral meniscectomies and diagnosed tear of the lateral meniscus of the left knee.

In a decision dated November 17, 2008, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his left knee condition was caused by the July 9, 2008 work incident.

### **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>

In order 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,

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<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).

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 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

Appellant alleged that he sustained a left knee injury on July 9, 2008 when he stooped down to vacuum the bottom tier of a bar coder machine. The Board notes that the evidence supports that the incident of July 9, 2008 occurred as alleged. The Board finds, however, that the medical evidence is insufficient to establish that appellant's left knee condition is causally related to the July 9, 2008 work incident.

On October 17, 2008 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 the July 9, 2008 work incident caused or aggravated his left knee condition.

Dr. Greenway treated appellant for left knee pain, swelling, popping and locking which began one month earlier. He noted that appellant did not recall any specific injury or vigorous physical activity. Dr. Greenway did not obtain a history of the July 9, 2008 incident. He noted an essentially normal physical examination and indicated that left knee x-rays revealed normal bone and joint structure. This report did not provide a diagnosis of a specific medical condition affecting appellant's left knee or provide<sup>7</sup> an opinion on how appellant's employment caused or aggravated his condition.<sup>8</sup> Consequently this report is of diminished probative value and does

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

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

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

<sup>7</sup> *See Deborah L. Beatty*, 54 ECAB 340 (2003) (where the Board found that in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

<sup>8</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).

not establish appellant's traumatic injury claim. On September 19, 2008 Dr. Greenway diagnosed a tear to the medial meniscus of the left knee joint as noted on an MRI scan. On September 23, 2008 he performed arthroscopy of the left knee joint and medial and lateral meniscectomies and diagnosed tear of the lateral meniscus of the left knee joint. However, as noted, Dr. Greenway did not address the July 9, 2008 incident at work or how appellant's left knee condition was due to his federal employment. He did not describe how the July 9, 2008 incident involving stooping to clean a bar coder machine would cause or aggravate a tear of the left lateral meniscus. Appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, addressing a causal relationship between the employment and the diagnosed condition. He has not submitted reasoned medical evidence explaining how or why his left knee injury is employment related. Appellant has not met his burden of proof.

On appeal appellant asserts that the facts of his claim were inaccurately portrayed and reiterated the circumstances surrounding the July 9, 2008 incident and subsequent medical treatment. However, the Board notes that the factual circumstances of appellant's claim are not in dispute. The Office accepted the July 9, 2008 incident at work. Appellant's claim was denied because he failed to submit rationalized medical evidence addressing how this incident caused his left knee condition. The Board further notes that the record does not contain the Form CA-17 referenced by appellant in his appeal papers and the Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision.<sup>9</sup>

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>10</sup> Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied his claim.

### **CONCLUSION**

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a left knee injury causally related to the July 9, 2008 employment incident.

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<sup>9</sup> 5 U.S.C. § 501.2(c).

<sup>10</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 17, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 4, 2009  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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