

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

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**J.F., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Memphis, TN, Employer**

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**Docket No. 10-160  
Issued: July 14, 2010**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On October 16, 2009 appellant filed a timely appeal from the April 23, 2009 merit decision of the Office of Workers' Compensation Programs, which denied her claim for an employment injury on December 30, 2008. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

**ISSUE**

The issue is whether appellant sustained a right knee injury in the performance of duty on December 30, 2008.

**FACTUAL HISTORY**

On December 30, 2008 appellant, then a 55-year-old mail handler, filed a claim for compensation alleging that she sustained a right knee injury in the performance of duty on that day: "Cleaning up area before getting off work at 6:30 AM made a turn and twisted my knee experiencing great pain."

In a decision dated February 9, 2009, the Office denied appellant's claim. It found that the evidence was sufficient to establish that the claimed incident occurred, that she was cleaning up her assigned area before finishing work and then made a turn. The Office found that there was no medical evidence providing a diagnosis of the claimed condition that could be connected to the accepted incident.

Appellant requested reconsideration. She submitted medical evidence predating the alleged December 30, 2008 injury. Appellant also submitted two reports from Dr. F. Oliver Hardy, her family physician and general surgeon. On January 8, 2009 Dr. Hardy reported that appellant was unable to perform her job duties since an on-the-job injury to her right knee on December 30, 2008. On February 7, 2009 he noted appellant's complaint of right knee discomfort, history, findings on physical examination, and diagnoses that included tears of the anterior and posterior horns of the right medial meniscus.

In a decision dated April 23, 2009, the Office reviewed the merits of appellant's claim and denied modification of its February 9, 2009 decision. It found that, while the medical evidence established that appellant had a preexisting right knee condition, it did not establish how the incident at work on December 30, 2008 caused or affected her right knee condition.

On appeal, appellant argues that the Office's decisions are unfair because the information about her injuries came from the injury compensation specialist at work. She also discounts the controversion of her claim because the acting supervisor was not a doctor and was not on the scene. Appellant added that a magnetic resonance imaging scan from December 31, 2008 was different from a previous scan.

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>1</sup> An employee seeking benefits under the Act has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.<sup>2</sup>

Causal relationship is a medical issue,<sup>3</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete

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<sup>1</sup> 5 U.S.C. § 8102(a).

<sup>2</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,<sup>4</sup> must be one of reasonable medical certainty,<sup>5</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>6</sup>

### ANALYSIS

The Office accepted that on December 30, 2008 appellant twisted her right knee while cleaning up an area before getting off of work. Appellant has established that she experienced a specific incident at the time, place and in the manner alleged. The question is whether this incident caused an injury.

The medical evidence predating the December 30, 2008 incident does not address what happened that day and is not relevant to her claim. Dr. Hardy, appellant's family physician, submitted two reports after the December 30, 2008 incident. In a January 8, 2009 report, he noted only that appellant had an on-the-job injury to her right knee on December 30, 2008. Dr. Hardy did not address the incident accepted in this case or how the alleged injury occurred. He provided no history of what appellant did that day. Dr. Hardy did not describe the turn in question and did not explain with sound medical reasoning how such an incident could cause a diagnosed medical condition. Medical conclusions based on inaccurate or incomplete histories are of diminished probative value.<sup>7</sup> Medical conclusions unsupported by rationale are also of little probative value.<sup>8</sup> Dr. Hardy's January 8, 2009 report does not establish the critical element of causal relationship.

In a February 7, 2009 report, Dr. Hardy again made no reference to December 30, 2008 or to the incident that occurred that day. For this reason, his report does not support appellant's claim for compensation. As noted, 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 sound medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment. Because appellant failed to submit such medical opinion evidence, she has not met her burden to establish that she sustained a right knee injury in the performance of duty on December 30, 2008.

Appellant argues on appeal that the Office's decisions are unfair because the information about her injuries came from the injury compensation specialist at work and because her acting supervisor was not a doctor or on the scene. The Office did not deny her claim based on the information from the injury compensation specialist or from her acting supervisor. It denied her

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<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>6</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>7</sup> *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

<sup>8</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

claim because she did not submit a well-reasoned medical report explaining how the incident of December 30, 2008 caused the claimed medical condition. Appellant notes that a magnetic resonance imaging scan from December 31, 2008 was different from a previous scan. It is up to her doctor to explain any change in diagnostic testing and any bearing it might have in establishing whether the December 30, 2008 incident at work caused a right knee injury.

**CONCLUSION**

The Board finds that appellant has not met her burden to establish that she sustained a right knee injury in the performance of duty on December 30, 2008.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 23, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 14, 2010  
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