United States Department of Labor
Employees' Compensation Appeals Board

D.T., Appellant	)	
	)	
and	)	**Docket No. 10-1118**
	)	**Issued: November 15, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Merrifield, VA, 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
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 8, 2010 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated October 19, 2009, which denied his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a traumatic injury of his left knee on August 5, 2009.

FACTUAL HISTORY

On August 11, 2009 appellant, then a 45-year-old electronic technician, filed a compensation claim for traumatic injury. He stated that on August 5, 2009 he kneeled on the floor to repair a machine and experienced knee pain when he got up and walked away. Appellant identified his injury as a left knee sprain. He stopped work that morning to go to Inova Loudoun Hospital and returned to work later that same day. Appellant submitted as

evidence his discharge papers, which indicated that he had a knee sprain and prescribed pain medicine. He was treated by Dr. Marwan R. Jaber, a Board-certified emergency medicine practitioner. Appellant's supervisor controverted his claim on the basis that a knee injury did not result from his employment activities. The employing establishment noted that appellant had a preexisting knee injury, as documented in a May 11, 2005 letter from his personal physician, Dr. James Ramser, Jr., a Board-certified orthopedic surgeon.

In a letter dated August 13, 2009, the employing establishment further controverted appellant's claim and request for continuation of pay. It stated that he previously sustained a nonwork-related knee injury and pointed out that the hospital discharge record from Inova Loudoun Hospital did not indicate which knee was injured. They requested that the claim be adjudicated as a Form CA-2. The employing establishment submitted as medical evidence a May 11, 2005 letter from Dr. Ramser, which stated that appellant dislocated his right patella in September 2002 and suffered from chronic lateral instability and patella chondromalacia. It also submitted a routing slip dated December 2, 2008, where appellant requested to be upgraded from coach class seating to business class or economy plus because of his knee condition. In addition, the employing establishment submitted a December 19, 2008 letter denying his request for upgraded seating.

On August 27, 2009 the Office informed appellant that he submitted insufficient evidence to support his claim. It specifically requested that he provide a detailed description of how the injury occurred, including any statements from any witnesses or other documentation to support his claim and submit a detailed medical report from his physician providing a firm diagnosis of any condition resulting from this injury and a medical opinion explaining how the claimed condition was caused by the August 5, 2009 work incident.

On October 19, 2009 the Office issued a decision denying appellant's claim for compensation because of insufficient medical evidence establishing that he sustained an injury as defined under the Federal Employees' Compensation Act. It accepted that the alleged work incident occurred, but determined that the evidence did not establish a diagnosed medical condition resulting from the incident. The Office also pointed out that appellant was informed about the deficiencies in his claim but did not submit any additional evidence. Appellant, therefore, failed to provide sufficient medical evidence establishing that he sustained a traumatic injury resulting from his August 5, 2009 employment incident.

LEGAL PRECEDENT

An employee seeking compensation under the Act[1] has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence,[2] including that he is an "employee" within the meaning of the Act[3] and that he filed his claim

[1] 5 U.S.C. §§ 8101-8193.

[2] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

[3] *See M.H.*, 59 ECAB 461 (2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); *see* 5 U.S.C. § 8101(1).

within the applicable time limitation.[4] The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.[5]

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 actually experienced the employment incident at the time, place and in the manner alleged.[6] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[7]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.[8]

ANALYSIS

The Board finds that appellant failed to meet his burden of proof establishing that he sustained a traumatic injury as a result of a work-related activity. The Office accepted that the August 5, 2009 work event occurred at the specified time, place and in the manner alleged. Appellant failed, however, to submit medical evidence specifying a diagnosed medical condition that is causally related to the employment incident.

The record reveals that on August 5, 2009 appellant kneeled down to repair a machine at work and experienced pain in his left knee, which increased as he continued to walk. On appeal, he reiterated that he experienced very sharp pain in his left knee shortly after kneeling down. Pain, however, is a symptom, not a compensable medical diagnosis.[9] The term injury as defined by the Act refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.[10] Appellant,

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[4] *R.C.*, 59 ECAB 427 (2008); *Kathryn A. O'Donnell,* 7 ECAB 227, 231 (1954); *see* 5 U.S.C. § 8122.

[5] *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[6] *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

[7] *T.H.*, 59 ECAB 388 (2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

[8] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[9] *Robert Broome,* 55 ECAB 339, 342, (2004).

[10] *Donna A. Lietz*, 57 ECAB 203 (2005); *Elaine Pendleton*, *supra* note 5 at 1149.

therefore, must submit medical evidence establishing that he suffered from some physical or mental condition, more than just pain, as a result of the August 5, 2009 incident.[11]

Appellant submitted a hospital discharge report from Inova Loudoun Hospital where he was treated by Dr. Jaber, who noted that he had a knee sprain but failed to provide a firm medical diagnosis regarding his medical condition or give an opinion explaining how kneeling down aggravated or contributed to the sprain. The discharge report is also vague because it does not state which knee was sprained, whether it resulted from the August 5, 2009 incident or his preexisting right knee injury. The other documentation submitted to the record pertained to another injury appellant had sustained to his right knee. On August 27, 2009 the Office contacted him and requested additional information, but he did not submit any additional medical evidence. Thus, appellant failed to meet his burden of proof establishing, by the weight of the medical evidence, a firm diagnosis of the condition claimed and a causal relationship between that condition and factors of federal employment.[12]

CONCLUSION

The Board finds that appellant has failed to meet his burden of proof establishing that he sustained a traumatic injury that was causally related to the August 5, 2009 work incident.

[11] *See E.K.,* (Docket No. 09-1827, issued April 21, 2010) (finding that a hospital discharge report indicating smoke inhalation but not providing a specific medical condition was insufficient to establish that appellant sustained a traumatic injury in the performance of duty).

[12] *See Roy L. Humphrey*, 57 ECAB 238 (2005); *see Naomi A. Lilly,* 10 ECAB 560, 574 (1959).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 19, 2009 is affirmed.

Issued: November 15, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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