



In a January 6, 2009 report, Dr. John Savage Jr., a Board-certified orthopedic surgeon, noted that on December 17, 2008 appellant stepped out of a mail truck at work when her left leg twisted and extended outward as she fell. He advised that x-rays did not reveal any fractures or bony abnormality. Upon examination, Dr. Savage found left knee swelling, mild crepitus and discomfort on palpation at the medial joint line. He also found that appellant's left knee could not fully flex or extend and that she had poor range of motion with locking sensation with extension. Dr. Savage diagnosed meniscal tear of the left knee.

On January 20, 2009 Dr. Savage diagnosed left knee strain and stated that appellant hurt her knee while getting out of a truck where she fell on ice. He reviewed diagnostic tests and noted a small benign cyst in the posteromedial aspect of the left knee at the femoral metaphysis level. Dr. Savage noted this could be related to interarticular effusion that occurred at the time of injury. He also noted some chondromalacia of the patella but no evidence of a meniscal tear. Dr. Savage's examination revealed tenderness in the suprapatellar region of the quadriceps insertion. He initially suspected that appellant's injury was a strain but noted there was no change in the tissues of this area in a magnetic resonance imaging (MRI) scan that he reviewed. Dr. Savage submitted additional work status reports advising that appellant was unable to work due to her left knee condition.

In a December 30, 2008 emergency room report, Dr. Michael Casares, Board-certified in emergency medicine, noted appellant's complaint of left knee injury at work 10 days prior from getting out of a truck. He diagnosed left knee pain.

On February 10, 2009 Dr. Savage noted that appellant originally injured her left knee through a workers' compensation issue. He diagnosed continued left knee pain and recommended arthroscopy.

On March 3, 2009 the Office advised appellant of the factual and medical evidence necessary to establish her claim and allowed her 30 days to submit such information.

In a March 16, 2009 report, Dr. Savage stated that appellant injured her left knee on December 17, 2008 after stepping from a truck and twisting her leg. He first treated her on January 6, 2009 at which time he found effusion, mild crepitus, discomfort upon palpation of the medial joint and poor range of motion with locking sensation upon extension. A January 20, 2009 MRI scan showed a benign cyst in the posteromedial aspect of appellant's left knee at the level of femoral metaphysis. Dr. Savage noted that appellant's condition had not improved during her February 10, 2009 visit. He diagnosed unresolved knee pain. Dr. Savage opined that appellant's cyst was not the source of her discomfort and that he needed to ascertain the source by arthroscopy. In an April 7, 2009 attending physician's report, he indicated that appellant's history of injury consisted of knee injury, torn meniscus and internal derangement of the left knee. Dr. Savage diagnosed internal derangement of the left knee. He checked a box "no" indicating that appellant had no concurrent or preexisting injury. Dr. Savage also checked a box "yes" indicating that appellant's condition was caused or aggravated by her employment activity.

In an April 22, 2009 decision, the Office denied appellant's claim finding that the medical evidence did not establish that she sustained a left knee condition as alleged.

Appellant requested an oral hearing, which was held on September 14, 2009. In a statement dated April 27, 2009, she addressed her continued pain and inability to work. Appellant requested that the Office authorize the recommended arthroscopy. On June 11, 2009 she reiterated her request for surgical authorization.

In a March 31, 2009 report, Dr. Savage stated that appellant injured her knee while delivering mail for the employing establishment by twisting and falling on her leg. He noted that the area of cystic or fluid formation on her knee, as shown on the MRI scan, could be related to the injury but not accurately determined until she underwent an arthroscopy. Dr. Savage also noted that this area was not related in location to appellant's pain but could very well be an effusion as a result of her injury, but that it could also have nothing to do with her injury or pain. He noted that effusions were often a secondary result of injury and could establish itself as a result of a causative problem. Dr. Savage explained that appellant clearly had a problem and had been struggling. He reiterated his diagnosis of internal derangement of the left knee.

Appellant submitted Dr. Savage's August 10, 2009 surgical report diagnosing chondromalacia patella of the left knee. Dr. Savage performed an arthroscopy and the left knee chondroplasty of the patella. On September 1, 2009 he reiterated that appellant's work situation initially caused her injury. Dr. Savage found mild swelling and well-healed surgical wounds.

In a November 12, 2009 decision, an Office hearing representative affirmed the April 22, 2009 decision. He found that the work incident had been established but the medical evidence did not establish that appellant's left knee condition was causally related to the December 17, 2009 work incident. The hearing representative noted that Dr. Savage had consistently supported causal relationship between appellant's left knee condition and her work incident but that he did not establish a diagnosis until appellant underwent an arthroscopy and such opinion was not rationalized.

### **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 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; 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>2</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a "fact of injury" has been established. 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. Second, the

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *S.P.*, 59 ECAB \_\_\_ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>3</sup>

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.<sup>4</sup>

### ANALYSIS

The record reflects that on December 17, 2008 appellant started to fall and that her left leg extended when she attempted to step out of her truck while working. Therefore, the issue is whether she has submitted sufficient medical evidence to establish that the December 17, 2008 work incident caused her left knee condition. The Board finds that this case is not in posture for a decision.

The Office found that the medical evidence was insufficient to establish a causal relationship between a diagnosed medical condition and the claimed event. However, the Board finds that the medical evidence of record is sufficient to require further development of the case record.

Reports from Dr. Savage support that appellant's left knee condition was work related to the December 17, 2008 incident. For example, in reports dated January 6 and March 16, 2009, he diagnosed meniscal tear of the left knee and noted that on December 17, 2008 she had stepped out of a truck when she twisted her left leg. Dr. Savage's examination also revealed left knee swelling, mild crepitus, a benign cyst and poor range of motion. On January 20 and March 31, 2009 he reiterated that appellant injured her left knee while stepping out of a truck at work. Dr. Savage also suggested that the cyst in appellant's knee was related to interarticular effusion that occurred at the time of the work-related injury. In a February 10, 2009 report, he opined that her continued left knee pain was due to her original left knee injury that dealt with a workers' compensation issue. In an April 7, 2009 attending physician's report, Dr. Savage diagnosed internal derangement of the left knee and indicated that this condition was caused by appellant's employment incident. He further indicated that appellant had no preexisting left knee injuries. On September 1, 2009 Dr. Savage opined that appellant's work situation initially caused her left knee injury. He also submitted several work status reports advising that appellant was unable to work due to her left knee condition.

---

<sup>3</sup> *Id.*

<sup>4</sup> *I.J.*, 59 ECAB \_\_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Similarly, Dr. Casares' December 30, 2008 emergency room report supports causal relationship. He diagnosed left knee pain and reported that appellant injured her left knee from stepping out of a truck at work.

While none of the medical reports of record contain a completely rationalized opinion, they raise an uncontroverted inference of causal relationship between appellant's left knee condition and the December 17, 2008 work incident. Although the reports are not sufficient to meet her burden of proof to establish her claim, they are sufficient to require the Office to further develop the medical evidence and the case record.<sup>5</sup> It is well established that proceedings under the Act are not adversarial in nature and, while the claimant has the burden of establishing entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.<sup>6</sup>

For these reasons, the Board finds that the case must be remanded for further development of the medical evidence. On remand, the Office shall obtain a rationalized opinion from an appropriate Board-certified physician as to whether appellant's claimed left knee condition is causally related to the December 17, 2008 work incident. Following this and such other development as is deemed necessary, the Office shall issue an appropriate merit decision.

### **CONCLUSION**

The Board finds that this case is not in posture for a decision as to whether appellant sustained a traumatic injury on December 17, 2008 in the performance of duty.

---

<sup>5</sup> See *P.K.*, 60 ECAB \_\_\_\_ (Docket No. 08-2551, issued June 2, 2009); see also *Horace Langhorne*, 29 ECAB 820 (1978).

<sup>6</sup> *John Carlone*, 41 ECAB 354 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated November 12, 2009 is set aside and the case is remanded for further development consistent with this decision.

Issued: October 4, 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