

Dan Short, a registered nurse, submitted appellant's health unit notes dated February 25, 2010. They reflect a history that appellant slipped and fell landing on his right knee and hand. Appellant had a scrape below his kneecap which Mr. Short treated with antibiotic ointment and a bandage. He subsequently reported right knee discomfort and right rib discomfort on March 24, 2010 with bruising and discoloration. Mr. Short stated on March 29, 2010 that appellant's x-rays revealed a hairline fracture of the right rib cage.

Appellant submitted x-ray studies from Dr. Alan S. Ray, a Board-certified radiologist, dated March 26, 2010. He found a normal left knee and a small acute incomplete fracture of the right seventh lateral rib. Dr. Norman L. Fogle, a Board-certified family practitioner, noted on March 26, 2010 that appellant fell at work injuring his right knee and rib area. He diagnosed knee injury work related and rib pain work related. On April 9, 2010 Dr. Fogle reexamined appellant's knee and ribs. He diagnosed prediabetes, hyperlipidemia, obesity, sleep apnea, migraines, back pain, conjunctivitis, sinusitis and pharyngitis. Dr. Fogle stated that appellant had a resolved fracture of the right rib and knee.

By decision dated May 10, 2010, the Office denied appellant's claim finding that he failed to submit sufficient medical evidence to establish that he sustained an injury on February 25, 2010 as alleged.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employee's Compensation Act¹ has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of the Act and 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 or specific condition for which compensation is claimed is causally related to the employment injury.²

The Office 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. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."³ 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.⁴ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. A

¹ 5 U.S.C. §§ 8101-8193.

² *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

³ 20 C.F.R. § 10.5(ee).

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁵ Medical rationale 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 activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.⁶

ANALYSIS

The Office accepted the claimed incident of a fall on February 25, 2010 in the performance of duty at the time, place and in the manner alleged. The issue is whether the fall at work on February 25, 2010 caused an injury. The Office denied appellant's claim finding that the evidence of record did not support a medical condition resulting from the incident. The Board notes, however, that the employing establishment clinic provided a diagnosis of an abrasion on appellant's right knee, which was treated with antibiotic ointment and a bandage. Although causal relationship generally requires a rationalized medical opinion, the Office may accept a case with a medical report when one or more of the following criteria, as set forth in the Office's procedure manual,⁷ are satisfied:

“(a) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burns, lacerations, insect sting or animal bite);

“(b) The injury was witnessed or reported promptly and no dispute exists as to the fact of injury; and

“(c) No time was lost from work due to the disability.”

The condition reported, a knee abrasion, meets the first criteria as the type of condition that is minor and can be identified by a layperson.⁸ The record establishes that appellant promptly reported his fall to his employer and was seen at the employing establishment health unit. He did not claim wage-loss compensation. The Board finds that a medical report is not necessary to establish a traumatic injury in this case and that the claim can be accepted for a right knee abrasion.

As to appellant's claim for additional injuries resulting from the February 25, 2010 employment incident, the Board finds that the medical evidence of record is not sufficient to meet his burden of proof. He alleged that he sustained injury to his right hand and an incomplete

⁵ *T.F.*, 58 ECAB 128 (2006).

⁶ *A.D.*, 58 ECAB 149 (2006).

⁷ *Jussara L. Arcanjo*, 55 ECAB 281 (2004); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3d(1)(a), (c) (June 1995).

⁸ Nurses are not physicians under the Act and are not competent to render a medical opinion. *G.G.*, 58 ECAB 389 (2007). Therefore, Mr. Short's notes are not medical evidence and cannot establish appellant's claim for an injury beyond the abrasion of his right knee accepted by the Board in this case.

fracture of his seventh right lateral rib. The medical evidence in the record consists of reports from Dr. Fogle dated March 26 and April 9, 2010, indicating that appellant fell at work injuring his right knee and rib area. He diagnosed work-related knee and rib pain. The Board generally has held that the diagnosis of pain is not a specific diagnosis such as to support basis for payment of compensation.⁹ Dr. Fogle did not provide any further explanation of appellant's condition. His diagnosis of pain is not sufficient to meet appellant's burden of proof in establishing a traumatic injury.

In an April 9, 2010 note, Dr. Fogle merely stated that appellant had a resolved fracture of the right rib and knee. He did not provide a history of injury or address whether appellant's fracture of the knee and rib was work related. There is no explanation in support of Dr. Fogle's conclusion.

The Board notes that appellant's left knee was x-rayed on March 26, 2010 and that this report does not offer any evidence regarding his alleged right knee condition. The March 26, 2010 report from Dr. Ray regarding appellant's right seventh lateral rib does not provide any history of injury or medical opinion explaining how the rib condition was related to the February 25, 2010 employment injury.

CONCLUSION

The Board finds that appellant sustained a right knee abrasion on February 25, 2010 in the performance of duty. The Board further finds that he did not establish any other medical condition arising from the February 25, 2010 employment injury.

⁹ *Robert Broome*, 55 ECAB 339 (2004); *Thomas A. Faber*, 50 ECAB 566 (1999); *Samuel Senkow*, 50 ECAB 370 (1999).

ORDER

IT IS HEREBY ORDERED THAT the May 10, 2010 decision of the Office of Workers' Compensation Programs is affirmed, as modified to accept a right knee abrasion.

Issued: February 4, 2011
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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