



## **FACTUAL HISTORY**

On July 8, 2010 appellant, then a 53-year-old materials handler, filed a traumatic injury claim alleging that her left knee locked up on June 24, 2010 after she unloaded a truck, dismounted a forklift and walked toward a door. She did not stop work. The employing establishment controverted the claim on the grounds that appellant filed two weeks after the purported incident and there was no evidence of causal relationship.

A June 25, 2010 report from an employing establishment registered nurse diagnosed a medial collateral ligament strain and a partial medial meniscal tear. Physical capacity reports dated June 28 and 30, 2010 and signed by a physician's assistant at the employing establishment released appellant to full duty.

The Office informed appellant on July 12, 2010 that additional evidence was needed to establish her claim. It gave her 30 days to submit medical reports describing the history of injury, examination findings, diagnosis and course of treatment as well as offering a physician's reasoned opinion as to how the employment incident caused or aggravated the injury.

By decision dated August 18, 2010, the Office denied appellant's claim, finding the medical evidence insufficient to demonstrate that the June 24, 2010 work incident caused or aggravated a left knee condition.

## **LEGAL PRECEDENT**

An employee seeking compensation under the Act has the burden of establishing the essential elements of her claim by the weight of reliable, probative and substantial evidence,<sup>2</sup> including that she is an "employee" within the meaning of the Act and that she filed her claim within the applicable time limitation.<sup>3</sup> The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.<sup>4</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>5</sup>

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion

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<sup>2</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

<sup>3</sup> *R.C.*, 59 ECAB 427 (2008).

<sup>4</sup> *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *T.H.*, 59 ECAB 388 (2008).

evidence is evidence which includes a physician's 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, 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>6</sup>

### **ANALYSIS**

The evidence supports that appellant unloaded a truck, dismounted a forklift, and walked toward a door on June 24, 2010. However, she did not furnish medical opinion evidence to establish that this employment incident caused a left knee injury. While appellant provided a June 25, 2010 report from a registered nurse, which assessed both a medial collateral ligament strain and meniscal tearing, and physical capacity reports signed by a physician's assistant, medical opinion can only be given by a qualified physician.<sup>7</sup> Since neither a nurse nor a physician assistant is a "physician" as defined under the Act,<sup>8</sup> the submitted records cannot constitute competent medical evidence. To establish her claim, appellant must submit evidence from a physician that explain how the June 24, 2010 employment incident caused or aggravated an injury.

Appellant contends on appeal that her supervisor was notified about her injury on June 24, 2010 rather than July 8, 2010. However, this is not the reason that the claim was denied. As noted, appellant failed to provide medical reports from a qualified physician explaining how the June 24, 2010 employment incident caused a left knee condition. In the absence of such well-reasoned medical opinion, she failed to meet her burden.

### **CONCLUSION**

The Board finds that appellant did not establish that she sustained a traumatic injury in the performance of duty on June 24, 2010.

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<sup>6</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>7</sup> *See Charley V.B. Harley*, 2 ECAB 208, 211 (1949).

<sup>8</sup> 5 U.S.C. § 8101(2); *Roy L. Humphrey*, 57 ECAB 238, 242 (2005).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 18, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 14, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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