

Board did not review the merits of the claim on the prior appeal, the Board will review the factual history.

On June 30, 2008 appellant, then a 38-year-old clerk, filed a traumatic injury claim alleging that she sustained a left knee injury in the performance of duty on June 17, 2008. She hit her knee on “area of keyboard.” In a June 26, 2008 statement, a supervisor advised that on June 17, 2008 appellant reported that she hit her knee on June 14, 2008 on a console key pad mount. Appellant submitted a June 30, 2008 statement that she hit her left knee on June 14, 2008 on a key pad mount and on June 17, 2008 hit her knee again.

In a report dated July 16, 2008, Dr. Ranjan Maitra, an orthopedic surgeon, obtained a history that four weeks earlier appellant had been scooting on a chair and hit her left knee on a counter support. He noted that she apparently did this again. Dr. Maitra advised that a June 19, 2008 magnetic resonance imaging (MRI) scan showed a small joint effusion and a torn lateral meniscus. He stated:

“I think it is a little but unusual to obtain a lateral meniscus tear from a direct blow to the anterior aspect of the knee; however, the patient had absolutely no symptoms or problems with the knee prior to this event and so I have [t]o assume that her mechanism of injury as stated accounts for her symptoms and her diagnostic findings. Having said that, I think most of the patients symptoms are related to direct contusion to the patellofemoral joint and are probably unrelated to her lateral meniscus tear given lack of effusion and lack of McMurray examination.”

In a decision dated August 4, 2008, the Office accepted the claim for a left knee contusion.² It found that no benefits for a left lateral meniscus tear would be covered.

Appellant requested a hearing before an Office hearing representative on August 23, 2008. By decision dated October 15, 2008, the Office found appellant was not entitled to a hearing as no adverse decision had been issued. The Board found the August 4, 2008 decision was an adverse decision and remanded the case for a hearing before an Office hearing representative.

The record indicates that appellant underwent left knee surgery on September 17, 2008, performed by Dr. Jeffrey Mokris, an orthopedic surgeon. She returned to a light-duty position on October 1, 2008. On December 17, 2008 appellant was treated for left leg pain. A Dr. Rollin Fuller diagnosed sciatica.

A telephonic hearing before an Office hearing representative was held on December 15, 2009. By decision dated February 23, 2010, the hearing representative found appellant had not established a left knee meniscal tear as employment related. The hearing representative found the medical evidence was insufficient to establish the claim.

² Appellant received wage-loss compensation from August 2 to September 16, 2008.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, 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.⁴

ANALYSIS

Appellant alleged that on June 14 and 17, 2008 she struck her left knee on a console key pad mount. The Office accepted that she sustained a left knee contusion. In a February 23, 2010 decision, the hearing representative stated that appellant did not notify her supervisor of a June 17, 2008 incident until June 30, 2008, and she noted that a June 18, 2008 report from a Dr. Theresa Watts reported that appellant "denies any acute trauma." She stated these "discrepancies raise question" as to whether a June 17, 2008 incident occurred as alleged. The Office has accepted the claim for a contusion in this case, based on a factual allegation of incidents on June 14 and 17, 2008. The hearing representative did not rescind acceptance of the claim or an accepted incident. The issue is whether appellant met her burden to establish causal relationship between a diagnosed lateral meniscus tear and the employment injury.

With respect to the medical evidence, the record does not contain a rationalized medical opinion regarding causal relationship of the meniscal tear. Dr. Maitra acknowledged that it was "unusual" for a direct blow to the anterior aspect of the knee to cause a meniscus tear. He then stated that, since appellant had no prior symptoms, he had to assume her mechanism of injury caused the symptoms and diagnostic findings. The Board has held that an opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury but symptomatic after it is not sufficient, without supporting rationale, to establish causal relationship.⁵ Dr. Maitra did not provide supporting rationale in this case.

The remaining medical evidence of record does not provide an opinion as causal relationship between employment and the diagnosed meniscal tear. Dr. Mokris, who performed the September 17, 2008 left knee surgery, did not discuss causal relationship. It is, as noted above, appellant's burden of proof. The Board finds appellant did not meet her burden of proof in this case.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ See *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996) (because the employee is symptomatic after an injury is not sufficient to establish causal relationship without supporting rationale).

CONCLUSION

The Board finds appellant did not establish a left torn meniscus as causally related to the accepted employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 23, 2010 is affirmed.

Issued: March 9, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

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