

FACTUAL HISTORY

On June 14, 2011 appellant, then a 52-year-old procurement technician, filed a traumatic injury claim alleging that on May 25, 2011 his heel caught in the carpet while he pushed back from his desk at work which caused a sprain or strain of his right knee. He did not initially stop work. The employing establishment controverted the claim.

In a separate statement, Jacob Fenner, a manager, noted that appellant did not report the injury until June 1, 2011, seven days later. Appellant was scheduled for a Hawaiian vacation, but it was not known whether he actually went. Mr. Fenner explained that, following his scheduled vacation, appellant did not report for work and advised the employing establishment that he would take three days of sick leave to meet with his physician regarding knee replacement surgery. He further noted that appellant informed him it was with regard to a work-related incident. Mr. Fenner controverted the claim and advised that there was no medical evidence to support a work-related condition. He enclosed a copy of an e-mail from appellant requesting May 26 and 27, 2011 off for a trip to Hawaii. Mr. Fenner also provided a copy of a June 1, 2011 e-mail from appellant requesting three days of sick leave from that date. A separate e-mail also dated June 1, 2011 from appellant contained a description of the injury as alleged.

In a June 1, 2011 report, Dr. Fatima Shah, a Board-certified family practitioner and osteopath, noted that appellant was seen for “severe nature osteoarthritis and having increased pain in both knees.” He placed appellant off work until June 10, 2011 pending further evaluation. OWCP received an undated work excuse from Dr. Constantine E. Phiripes, a Board-certified internist, who placed appellant off work from June 10 to 23, 2011 due to right knee pain. In a June 20, 2011 work excuse, Dr. Peter T. Simonian, a Board-certified orthopedic surgeon, indicated that appellant could not return to work for an approximate period of four to six weeks, as he was temporarily totally disabled.

By letter dated July 1, 2011, OWCP advised appellant that when his claim was initially received, it appeared to be for a minor injury that resulted in minimal or no lost time from work. It was administratively approved for limited medical expenses without formal consideration of the merits of the claim. As the employer challenged the claim, it was being reopened. OWCP advised appellant that additional factual and medical evidence was needed to establish the claim and allotted appellant 30 days to submit the requested information. In particular, it asked that appellant provide an opinion from his physician that explained how the reported work incident caused or aggravated a medical condition.

OWCP received a July 7, 2011 letter from Yvonne Carson, a nurse and injury management program manager, who indicated that appellant was a veteran with a previous right and left knee injury for which he was receiving a military service-connected disability.

In a July 25, 2011 response, appellant described his injury. He noted that he was wearing a pair of driving loafers with a textured heel and when he attempted to push away from his desk, his heel dug in and caused stress on his knee which had prior surgical repairs in 1987 and 2004. Appellant noted that the employing establishment was aware of his severe degenerative arthritis. He continued with his vacation as planned, but spent the duration of his time icing his knee and limiting his activities due to severe pain with limited mobility.

By decision dated August 12, 2011, OWCP denied appellant's claim on the grounds that he did not establish an injury as alleged. It found that the evidence was sufficient to show that the claimed event, pushing away from his desk, occurred as alleged. However, there was insufficient medical evidence to establish that this employment incident caused or aggravated his right knee.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was timely filed within the applicable time limitation period of FECA² and that an injury was sustained in the performance of duty.³ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP 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. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.⁵

The employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which 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 factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.⁷

² *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

⁶ *Id.* For a definition of the term "traumatic injury," see 20 C.F.R. § 10.5(ee).

⁷ *Id.*

ANALYSIS

Appellant alleged that he pushed back from his desk at work and injured his right knee on May 25, 2011. OWCP accepted that the claimed event, pushing back from his desk occurred in the performance of duty at work. The Board finds that the first component of fact of injury, the claimed incident -- pushing back from his desk, occurred as alleged.

The Board finds that the medical evidence is insufficient to establish that the May 25, 2011 employment incident caused an injury. The medical reports of record do not establish that pushing back from his desk at work caused a right knee condition. The medical evidence contains no reasoned explanation of how the employment incident on May 25, 2011 caused or aggravated an injury.⁸

Appellant submitted a June 1, 2011 report from Dr. Shah who diagnosed severe osteoarthritis. Dr. Shah did not provide a medical history of appellant's knee condition or of the incident at work. He did not address the cause of the diagnosed arthritis or relate it to appellant's May 25, 2011 employment incident. Dr. Shah's report is of diminished probative value. An undated work excuse from Dr. Phiripes placed appellant off work from June 10 to 23, 2011 due to right knee pain. He did not offer any opinion on causal relationship. In a June 20, 2011 work excuse, Dr. Simonian placed appellant off work for a period of four to six weeks and indicated that he was temporarily totally disabled. He failed to explain why appellant was off work or explain how disability was due to the May 25, 2011 incident. These reports are insufficient to establish appellant's claim as none of the physicians of record addressed how appellant's pushing away from his desk on May 25, 2011 caused or aggravated his right knee condition.⁹ The reports are of limited probative value and insufficient to meet his burden of proof.

Appellant did not submit any other medical evidence that specifically addressed how the May 25, 2011 incident caused or aggravated a diagnosed medical condition. Consequently, he has submitted insufficient medical evidence to establish that the May 25, 2011 incident caused an injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

⁸ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

⁹ *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

ORDER

IT IS HEREBY ORDERED THAT the August 12, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 23, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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