

when his right foot became entangled in a mattress liner, causing him to twist his right knee. He notified his supervisor on November 27, 2010.

In a November 29, 2010 x-ray report, Dr. Michael Rappaport, a Board-certified diagnostic radiologist, stated that the right knee appeared normal with no fracture, erosive or destructive changes, joint effusion or other soft tissue abnormality.

In a November 29, 2010 report, Dr. Rama T. Pathi, a Board-certified orthopedic surgeon, advised that appellant sustained a work-related injury on November 24, 2010 when he twisted his right knee after stepping on a piece of bed foam. Upon physical examination of the right knee, he noted mild swelling and tenderness over the medial joint, mild effusion over the knee joint and no laxity of the anterior cruciate ligament. Dr. Pathi stated that McMurray and Apley tests were positive and the neurovascular examination was normal. He diagnosed a meniscus tear to the right knee and opined that the injury was a direct result of appellant's November 24, 2010 work-related injury.

In follow-up treatment notes dated from December 6, 2010 to January 24, 2011, Dr. Pathi reported that appellant continued to complain of right knee pain, swelling, tenderness and popping and clicking with quick turns of the knee. He noted that a November 29, 2010 x-ray of the right knee was normal and a January 3, 2011 magnetic resonance imaging (MRI) scan revealed a focal area of increased T2 signal within the medial margin of the medial tibial plateau. Dr. Pathi diagnosed right knee meniscus tear and trabecular bone injury of the right tibial plateau.

By letter dated February 10, 2011, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

In a January 3, 2011 diagnostic study, Dr. Nastaran Fatemi, a Board-certified diagnostic radiologist, reported that the MRI scan of appellant's right knee showed a focal area of increased T2 signal within the medial margin of the medial tibial plateau, likely secondary to trabecular bone injury. He also noted that the medial and lateral menisci demonstrated normal signal and morphology without evidence of tear.

By decision dated March 14, 2011, OWCP denied appellant's claim on the grounds that the medical evidence was insufficient to establish a diagnosed medical condition and that a diagnosed condition was causally related to the November 24, 2010 employment incident.

On July 13, 2011 appellant requested reconsideration of OWCP's decision.

By letter dated June 1, 2011, Dr. Pathi reported that appellant's January 3, 2011 MRI scan revealed a trabecular bone injury to the medial tibial plateau. He stated that regardless of the MRI scan report, appellant was still positive for a medial meniscus tear. In addition, Dr. Pathi also diagnosed appellant with trabecular bone injury of the right knee.

By decision dated July 25, 2011, OWCP denied modification of its March 14, 2011 decision.²

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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed are causally related to the employment injury.³ 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.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.⁵ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁶ 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. This medical opinion must include an accurate history of the employee’s employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.⁷

² While this decision noted the legal standard for denial of merit review, the Board finds that this decision was in fact a merit review, as it reviewed the newly submitted evidence of record, denied modification of the prior decision and provided appeal rights consistent with a merit review.

³ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Elaine Pendleton*, *supra* note 3.

⁶ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁷ *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

OWCP accepted that the November 24, 2010 incident occurred as alleged. In its July 25, 2011 decision, it found insufficient evidence to establish a firm medical diagnosis of appellant's condition. The Board finds that the medical evidence of record establishes a diagnosis of right knee medial meniscus tear and trabecular bone injury. Dr. Pathi diagnosed the meniscus tear upon a thorough physical examination and positive McMurray and Apley tests. He noted that the MRI scan results did not change his diagnosis of right knee medial meniscus tear and also diagnosed right knee trabecular bone injury. The issue is whether the November 24, 2010 incident caused his right knee injury. Appellant must submit rationalized medical evidence to establish that his diagnosed right knee condition is causally related to the accepted November 24, 2010 employment incident.

While Dr. Pathi's reports establish a diagnosis, they are not rationalized as to the issue of causal relation. He obtained a history that appellant sustained a work-related injury on November 24, 2010 when he twisted his right knee after stepping on a piece of bed foam. Dr. Pathi failed to provide an adequate explanation of how the incident accepted in this case caused or contributed to appellant's right knee meniscus tear and trabecular bone injury. Though he concluded that a causal connection existed between appellant's injury and the November 24, 2010 employment incident, his reports provide insufficient support for that conclusion. Dr. Pathi merely recounted the incident as described by appellant, but did not offer a rationalized opinion on the issue of causal relationship.⁸ Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.⁹ The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.¹⁰ Dr. Pathi's reports do not meet that standard and are insufficient to meet appellant's burden of proof.

The remaining medical evidence of record is also insufficient to establish causal relationship because the diagnostic reports fail to state any opinion on causal relationship.¹¹ Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

In the instant case, the record is without rationalized medical evidence establishing a causal relationship between November 24, 2010 employment incident and appellant's right knee medial meniscus tear and trabecular bone injury. Thus, appellant has failed to establish his burden of proof.

⁸ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁹ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

¹⁰ *See Lee R. Haywood*, 48 ECAB 145 (1996).

¹¹ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a right knee injury on November 24, 2010 in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the July 25, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 23, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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