

**United States Department of Labor
Employees' Compensation Appeals Board**

A.S., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Princeton, NJ, Employer)
_____)

Docket No. 13-447
Issued: August 6, 2013

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On December 18, 2012 appellant filed a timely appeal of a November 9, 2012 Office of Workers' Compensation Programs' (OWCP) merit decision denying his traumatic injury claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a right knee injury in the performance of duty.

FACTUAL HISTORY

On July 10, 2012 appellant, then a 55-year-old letter carrier, filed a traumatic injury claim alleging that he sustained a swollen right knee that day when a box fell on it. The employing

¹ 5 U.S.C. § 8101 *et seq.*

establishment stated that on July 10, 2012 he was injured while delivering mail when a wall box fell out of the wall striking him on his right knee.

Dr. Matthew Fields, an emergency room physician, diagnosed knee contusion on July 12, 2012. Dr. Peter F. Sharkey, a Board-certified orthopedic surgeon, completed a report on August 9, 2012 and listed a history that appellant underwent right knee total replacement in March 2007. He noted that a box fell on appellant's right knee on July 10, 2012 while at work. Since then, appellant had significant pain and swelling in his knee. Dr. Sharkey stated that appellant had a very large effusion of the right knee and recommended physical therapy for "what appears to be post-traumatic synovitis of the right knee." He indicated that appellant was totally disabled. Dr. Sharkey completed an authorization for treatment on August 13, 2012. He noted that appellant's right knee developed a large effusion due to what "appears to be post-traumatic synovitis." Dr. Sharkey stated that on July 10, 2012 a box fell on appellant's right knee at work resulting in pain and swelling. He diagnosed post-traumatic synovitis of the right knee. Dr. Sharkey indicated with a checkmark "yes" that appellant's condition was caused or aggravated by the employment activity. On September 7, 2012 he stated that appellant could return to work on October 1, 2012.

In a letter dated September 25, 2012, OWCP requested additional factual and medical evidence in support of appellant's claim.

By decision dated November 9, 2012, OWCP denied appellant's claim finding that Dr. Sharkey stated that appellant's condition appeared to be post-traumatic synovitis of the right knee. It found that Dr. Sharkey failed to provide an explanation as to how the claimed employment incident of July 10, 2012 caused or aggravated a preexisting right knee medical condition. OWCP found that the hospital records were not sufficient to establish a knee contusion resulting from appellant's accepted employment injury.

LEGAL PRECEDENT

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

OWCP 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

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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.”⁵ To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁶ Second, the employee must submit sufficient evidence, generally only in the form a medical evidence, to establish that the employment incident caused a personal injury.⁷

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁸ Medical rationale 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 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 reasoning explaining the nature of the relationship between the diagnosed condition and specific employment activity or factors identified by the claimant.⁹

ANALYSIS

Appellant filed a traumatic injury claim after a box fell on his right knee in the performance of duty on July 10, 2012. OWCP accepted that the traumatic incident occurred as alleged. It found that appellant failed to submit the sufficient medical opinion evidence to establish an injury as a result of this incident.

The Board finds that appellant has not submitted adequate medical evidence to establish a right knee condition, including post-traumatic synovitis, as diagnosed by Dr. Sharkey who first examined appellant on August 9, 2012 and noted appellant’s history of a prior right knee total replacement in March 2007. Dr. Sharkey described the incident of July 10, 2012 and stated that appellant experienced pain and swelling in his knee with a very large effusion. He diagnosed “what appears to be post-traumatic synovitis of the right knee.” Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹⁰

Although Dr. Sharkey diagnosed possible post-traumatic synovitis of the right knee, his reports are speculative as to the nature of the diagnosis and are insufficient to establish a causal relationship to the July 10, 2012 incident. He did not explain how the employment incident would result in synovitis. Without a detailed medical report describing the July 10, 2011

⁵ 20 C.F.R. § 10.5(ee).

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *J.Z.*, 58 ECAB 529 (2007).

⁸ *T.F.*, 58 ECAB 128 (2006).

⁹ *A.D.*, 58 ECAB 149 (2006).

¹⁰ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

employment injury and explaining how this incident resulted in a diagnosed condition, appellant has not met his burden of proof.

On August 13, 2012 Dr. Sharkey completed a form report and stated that on July 10, 2012 a box fell on appellant's right knee at work resulting in pain and swelling. He again stated that appellant developed a large effusion on his right knee due what "appears to be post-traumatic synovitis." Dr. Sharkey diagnosed post-traumatic synovitis of the right knee. He indicated with a checkmark "yes" that this condition was caused or aggravated by the July 10, 2012 employment incident. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value.

CONCLUSION

The Board finds that appellant failed to submit sufficient medical evidence to establish a right knee injury in the performance of duty on July 10, 2012, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the a November 9, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 6, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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