

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

M.W., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Cleveland, OH, Employer**

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**Docket No. 12-1499
Issued: January 14, 2013**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On July 3, 2012 appellant, through her representative, filed a timely appeal from the May 22, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied her 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 over the merits of this case.

ISSUE

The issue is whether appellant sustained an injury in the performance of duty on February 7, 2010.

FACTUAL HISTORY

On April 6, 2010 appellant, a 56-year-old part-time flexible mail handler, filed a traumatic injury claim alleging that, while pulling a bulk mail container on February 7, 2010, her

¹ 5 U.S.C. § 8101 *et seq.*

left foot slipped and her ankle turned, causing her to fall to the floor on her left side. The container continued to roll over her up to her arm and right shoulder. Appellant told a coworker she was okay and did not need assistance. She told her supervisor, more than once, that she was fine. The next day, however, appellant could not move one side of her body after going home. It did not appear that she stopped work or sought medical attention at that time.

The record indicated that appellant last worked on March 20, 2010. A March 30, 2010 emergency department disability slip, signed by a nurse, asked that appellant be excused from work beginning March 8, 2010 for “follow up care (injury).”

In a June 8, 2010 decision, OWCP denied appellant’s traumatic injury claim. It found that the evidence supported that the incident occurred as described; however, the medical evidence did not provide a diagnosis in connection with the incident. OWCP explained that the medical evidence must not only contain a diagnosis but establish that a diagnosed medical condition was causally related to the work incident. Appellant requested a review of the written record.

A March 30, 2010 emergency room record indicated that appellant’s admitting diagnosis was sinus tarsi syndrome (STS), side pain, leg cramps and headache. The accident date was given as February 7, 2010. Appellant complained of her thighs stiffening up on her. Her lower extremities, however, showed no evidence of trauma. They were nontender and had full range of motion. Appellant also received a clinical impression of closed head injury. An imaging study, however, found no acute intracranial process. A May 6, 2010 neurology report stated that appellant was initially seen for foot pain predominately involving the left foot but currently presented with very diffuse complaints. A June 1, 2010 state workers’ compensation record showed a diagnosis of low back pain.

In an October 5, 2010 decision, an OWCP hearing representative affirmed the denial of appellant’s injury claim. The hearing representative found that she failed to submit medical evidence from a physician who provided a firm diagnosis causally related to the February 7, 2010 work incident and who supported that conclusion with sound medical reasoning.

On March 18, 2011 Dr. William N. Grant, a Board-certified internist, related that appellant was trying to pull a heavy cage used for transporting mail when her left knee gave out and she fell on her knee. He noted that appellant was currently having constant, painful discomfort in her left knee. Dr. Grant examined her and diagnosed a sprained left lateral collateral ligament. He stated that appellant’s diagnosis should be explained based on the opinion of an orthopedic specialist. By letter dated September 21, 2011, appellant requested reconsideration.

In a May 22, 2012 decision, OWCP reviewed the merits of appellant’s case and denied modification of its prior decision. It found that the record was devoid of a well-reasoned medical opinion providing a definitive diagnosis and opinion explaining how any such diagnosis was related to the events of February 7, 2010.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.³

Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty,⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

ANALYSIS

OWCP accepts that on February 7, 2010 appellant fell while pulling a bulk mail container, which continued to roll over her. Appellant has therefore established that she experienced a specific incident occurring at the time, place and in the manner alleged. The question that remains is whether this incident caused an injury.

OWCP properly explained that the medical evidence must not only provide a diagnosis but establish that a diagnosed medical condition was causally related to the work incident. The medical evidence suggested several diagnoses -- STS, leg cramps, headache, closed head injury, left foot pain, low back pain -- but no doctor discussed whether the February 7, 2010 incident caused or aggravated any of these conditions.

Dr. Grant, the internist, diagnosed a sprained left lateral collateral ligament, and he related that appellant's left knee gave out when she was pulling the bulk mail container. He stated that she fell on her knee. This history, however, is not consistent with the history appellant provided when she filed her claim for benefits. Appellant stated that her left foot slipped and her ankle turned, causing her to fall to the floor on her left side. She did not mention her left knee giving out. Appellant did not mention falling on her knee. She did mention that

² 5 U.S.C. § 8102(a).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

she was okay and did not need assistance. Appellant did mention that she told her supervisor, more than once, that she was fine. Dr. Grant's history of injury did not accurately reflect what happened on February 7, 2010. Medical conclusions based on inaccurate or incomplete histories are of little probative value.⁸

Further, Dr. Grant offered no discussion of causal relationship. He did not explain from a medical perspective how the incident caused appellant's diagnosed condition. Dr. Grant did not identify the clinical findings or other medical evidence that convinced him, more than a year after the fact, that appellant had suffered a left lateral collateral ligament sprain on February 7, 2010. Indeed, the March 30, 2010 emergency room records do not appear to mention such an injury. Medical conclusions unsupported by rationale are of little probative value.⁹

Because the medical evidence fails to establish that the February 7, 2010 work incident caused any specific medical condition, the Board finds that appellant has not met her burden to establish that she sustained an injury in the performance of duty. The Board will therefore affirm OWCP's May 22, 2012 decision.

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 her burden to establish that she sustained an injury in the performance of duty on February 7, 2010. The medical opinion evidence does not establish that the February 7, 2010 work incident caused an injury.

⁸ *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

⁹ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

ORDER

IT IS HEREBY ORDERED THAT the May 22, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 14, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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