

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

M.H., Appellant

and

**U.S. POSTAL SERVICE, UNIVERSITY CITY
BRANCH, St. Louis, MO, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 14-1058
Issued: August 6, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 7, 2014 appellant filed a timely appeal from the October 8, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) 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 over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish a left knee injury on July 18, 2013 while in the performance of duty.

On appeal, appellant contends that he did not have a preexisting left knee injury and that he still suffers has complications of his work-related left knee injury sustained on July 18, 2013 that requires medical treatment.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 29, 2013 appellant, then a 42-year-old carrier technician, filed a traumatic injury claim alleging that he sustained a sprained left knee on July 18, 2013 when he fell while walking down stairs at work. He stopped work on the date of injury.

A July 22, 2013 medical report contained an illegible signature and stated that appellant was off work. It estimated that he could return to work on July 29, 2013. A July 30, 2013 report contained the same illegible signature and indicated that appellant was off work. It estimated that he could return to work on August 27, 2013.

By letter dated September 5, 2013, OWCP advised appellant that the evidence submitted was insufficient to establish his claim. It requested that he submit additional factual and medical evidence.

In an August 28, 2013 report, Dr. Richard C. Lehman, an attending Board-certified orthopedic surgeon, advised that appellant had a left knee condition that required physical therapy. He placed appellant off work and estimated his return to full-duty work on September 11, 2013. In a September 19, 2013 treatment report, Dr. Lehman listed a history of the July 18, 2013 incident and appellant's medical treatment. Appellant complained of continuing pain and discomfort in the anterior aspect of his knee and soreness. On physical examination, Dr. Lehman reported pain in the anterior aspect of the knee. There was no varus or valgus instability and no anterior or posterior instability. Appellant had extreme pain with patellofemoral overpressure and grinding in the anterior aspect of the knee which had been significant. The crepitus in the anterior aspect of the knee had been substantial. A Lachman's test was negative. A McMurray's test was mildly positive. The lateral joint was not sore. The posterolateral corner was tight. Appellant had pain with aggressive extensor stress and flexor stress. He also had discomfort at the inferior pole with significant crepitus and some popping. There was no evidence of mechanical loss as it related to extension and flexion. Dr. Lehman stated that x-rays showed no evidence of an acute fracture. He advised that it appeared appellant had a partial patellar tendon tear. Dr. Lehman recommended an outpatient magnetic resonance imaging scan and reevaluation.

A September 5, 2013 report which contained an illegible signature stated that appellant was unable to work from July 22 to September 11, 2013 due to injuries.

In an October 8, 2013 decision, OWCP accepted that the July 18, 2013 incident occurred as alleged. It denied appellant's claim, however, finding that the medical evidence failed to establish that his left knee condition was causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial

² *Id.*

evidence³ including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.⁵ There are two components involved in establishing the fact of injury. 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

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁷ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.⁸ The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.⁹

ANALYSIS

OWCP accepted that on July 18, 2013 appellant fell down stairs while in the performance of duty. It found that the medical evidence failed to establish that he sustained a left knee injury as a result of the accepted incident. The Board finds that appellant failed to provide sufficient medical evidence to establish that he sustained a left knee injury causally related to the accepted July 18, 2013 employment incident.

Dr. Lehman's August 28, 2013 report noted that appellant had a left knee condition that required physical therapy. He also addressed his disability for work. Dr. Lehman, however, did not provide a firm medical diagnosis or provide any medical opinion addressing how appellant's left knee condition and resultant disability were caused or aggravated by the accepted July 18, 2013 employment incident. A physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to appellant's diagnosed medical condition.¹⁰ In a September 19, 2013 report, Dr. Lehman listed a history of the July 18, 2013 employment incident and findings on

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁴ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁶ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁷ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

⁸ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

⁹ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

¹⁰ *John W. Montoya*, 54 ECAB 306 (2003).

examination. He advised that appellant “may” have a partial patellar tendon tear. Again, Dr. Lehman did not provide a firm diagnosis or an explanation of a mechanism of injury. His opinion is not sufficient to establish that appellant sustained an employment-related traumatic injury on July 18, 2013.¹¹ For the stated reasons, the Board finds that Dr. Lehman’s reports are insufficient to establish appellant’s burden of proof.

The July 22 and 30, and September 5, 2013 reports which contained illegible signatures are insufficient to establish appellant’s claim. A report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence.¹² The Board finds that there is insufficient medical evidence to establish that appellant sustained a left knee injury causally related to the accepted July 18, 2013 employment incident.

On appeal, appellant contends that he did not have a preexisting left knee injury and experienced complications of his July 18, 2013 left knee injury that required medical treatment. As noted, appellant did not submit sufficient probative medical evidence to establish that he sustained an injury causally related to the July 18, 2013 employment incident. He did not meet his burden of proof to establish his claim.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a left knee injury on July 18, 2013 while in the performance of duty.

¹¹ See *T.H.*, 59 ECAB 388 (2008).

¹² *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

ORDER

IT IS HEREBY ORDERED THAT the October 8, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 6, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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