

herself fall striking both knees when she turned left while walking on the workroom floor. She did not stop work.

In a progress report dated February 7, 2013, Dr. David A. West, an osteopath, indicated that appellant related a history of falling forward onto her knees while walking down a hallway at work on February 3, 2013.² He stated that the “mechanism of injury includes fall onto knee and [is] work related.” On examination Dr. West found crepitus and pain with motion. He diagnosed left joint pain and localized primary osteoarthritis of the leg. Dr. West noted that appellant required a total right knee replacement and that she had a history of “failed previous knee scopes.” He asserted that her fall exacerbated her condition such that she now needed a knee replacement.³

By decision dated April 4, 2013, OWCP denied appellant’s claim after finding that the medical evidence was insufficient to support that she sustained a diagnosed condition causally related to the accepted February 3, 2013 employment incident.

In a report dated June 21, 2013, Dr. West related that he had evaluated appellant on February 7, 2013 for a workers’ compensation injury to both knees.⁴ He interpreted x-rays as showing degenerative changes to both knees, worse on the right. Dr. West stated, “The advanced stage of [o]steoarthritis is a result and in direct relation to [appellant’s] job duties over 25 [plus] years including bending, squatting [and] kneeling. Her fall onto her knees on February 3, 2013 exacerbated this condition which resulted in [her] having intractable pain, decreased function and instability.”

On June 22, 2013 appellant requested reconsideration.⁵ In a statement dated July 25, 2013, she related that on February 23, 2013 she “was walking down the corridor to the workroom floor. I was making a left turn to the next corridor when I felt my feet slip away from underneath me and I fell forward hitting both of my knees on the floor.”⁶ Appellant related that she did not hit any object falling but after her fall she “did strike up against the wall in the corridor.” She lay on the ground for 10 to 15 minutes awaiting assistance. Appellant’s knees both swelled and she sought treatment at the emergency room. She denied any “issues with fainting, falling, epilepsy, cardiac conditions or diabetes.”

² In a February 3, 2013 emergency room report, Dr. Leslie Lenning, Board-certified in emergency medicine, found that appellant should not walk or bear weight on her left leg for one week.

³ On February 28, 2013 Dr. West provided similar findings and diagnoses and indicated that he was waiting for approval for the total knee replacement.

⁴ In an undated and unsigned statement, Dr. West related that following a 2010 knee arthroscopy appellant was doing well “until she fell, which I believe [a]dvanced her condition to the point where she had intractable and consistent pain.” He attributed her osteoarthritis to “her type of work with bending, squatting and activities related to her job responsibilities.”

⁵ The record contains progress reports dated May 6 to July 12, 2013 from Joshua Sloan, a nurse practitioner, who treated appellant with injections.

⁶ Appellant indicated that the incident occurred on February 23, 2013 rather than February 3, 2013; however, based on the surrounding evidence, this appears to be a typographical error.

On August 9, 2013 OWCP received medical evidence dated 2000 to 2011 describing appellant's treatment for a bilateral knee condition.

By decision dated August 26, 2013, OWCP modified its April 4, 2013 decision to reflect that appellant did not sustain an injury in the performance of duty. Citing case law regarding idiopathic falls, it found that her fall was the result of her preexisting bilateral knee condition rather than work factors. OWCP denied appellant's claim based on its finding that the February 3, 2013 incident did not occur in the performance of duty as it resulted from her preexisting knee condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁷ 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 and/or specific condition for which compensation is claimed are causally related to the employment injury.⁸

FECA⁹ provides for the payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.¹⁰ The phrase sustained while in the performance of duty is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, arising out of and in the course of employment.¹¹ In the course of employment relates to the elements of time, place and work activity.¹² To arise in the course of employment, an injury must occur at a time when the employee may reasonably be said to be engaged in his or her master's business, at a place when he or she may reasonably be expected to be in connection with his or her employment and while he or she was reasonably fulfilling the duties of his or her employment or engaged in doing something incidental thereto.¹³

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface, and there is no intervention or contribution by any hazard or special condition of

⁷ 5 U.S.C. § 8101 *et seq.*

⁸ *Alvin V. Gadd*, 57 ECAB 172 (2005); *Anthony P. Silva*, 55 ECAB 179 (2003).

⁹ 5 U.S.C. §§ 8101-8193.

¹⁰ *Id.* at § 8102(a).

¹¹ This construction makes the statute effective in those situations generally recognized as properly within the scope of workers' compensation law. *Bernard D. Blum*, 1 ECAB 1 (1947).

¹² *D.L.*, 58 ECAB 667 (2007).

¹³ *See L.K.*, 59 ECAB 465 (2008); *R.S.*, 58 ECAB 660 (2007).

employment -- is not within coverage of FECA.¹⁴ Such an injury does not arise out of a risk connected with the employment and is, therefore, not compensable. The Board has made equally clear, however, that the fact that the cause of a particular fall cannot be ascertained or that the reason it occurred cannot be explained, does not establish that it was due to an idiopathic condition.¹⁵

ANALYSIS

Appellant alleged that she injured both knees on February 3, 2013 when she fell while turning left into a corridor. She related that her feet slipped away from under her and she fell striking her knees on the floor. OWCP accepted the occurrence of the fall on February 3, 2013 but found that it did not occur in the performance of duty as it was an idiopathic fall. The Board finds, however, that appellant's fall on February 3, 2013 occurred in the performance of duty. The incident occurred at a time and in a place where she was reasonably expected to be and while she was engaged in fulfilling an employment duty.¹⁶ Further, appellant described the injury as occurring when her feet slipped out from under her as she turned rather than alleging that she sustained a fall without any explanation of the mechanism of injury. Thus, her fall was not idiopathic or unexplained but instead resulted from her losing her footing while turning.¹⁷ Additionally, in order to establish an idiopathic fall, OWCP has the burden to present medical evidence showing the existence of a personal, nonoccupational pathology. The mere fact that an employee has a preexisting medical condition is not sufficient to establish that a fall is idiopathic.¹⁸ While the medical evidence supports that appellant has a preexisting bilateral knee impairment, there is no evidence supporting that the fall on February 3, 2013 resulted from a personal, nonoccupational pathology. In his February 7 and June 21, 2013 reports, Dr. West provided the history of appellant falling on her knees at work on February 3, 2013. He did not address the mechanism of her fall or attribute it to any personal pathology.

As OWCP denied appellant's claim on the grounds that the injury did not occur in the performance of duty, it did not evaluate all of the medical evidence of record to determine whether the February 3, 2013 employment incident resulted in an injury. The case will be remanded to OWCP for consideration of the medical evidence. After such further development as necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that the case is not in posture for decision.

¹⁴ See *Carol A. Lyles*, 57 ECAB 265 (2005).

¹⁵ See *John R. Black*, 49 ECAB 624 (1998); *Judy Bryant*, 40 ECAB 207 (1988).

¹⁶ See *A.K.*, 58 ECAB 119 (2006).

¹⁷ See *E.D.*, Docket No. 10-590 (issued January 3, 2011).

¹⁸ See *Steven S. Saleh*, 55 ECAB 169 (2003).

ORDER

IT IS HEREBY ORDERED THAT the August 26 and April 4, 2013 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: February 26, 2014
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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