

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

B.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Statesville, NC, Employer**

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**Docket No. 14-626
Issued: June 13, 2014**

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 January 28, 2014 appellant filed a timely appeal from the December 27, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 that he sustained a traumatic injury in the performance of duty on August 8, 2013.

FACTUAL HISTORY

On August 14, 2013 appellant, then a 52-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that he sustained injury on August 8, 2013 due to a fall on a wet

¹ 5 U.S.C. §§ 8101-8193.

slope at work. Regarding the nature of the injury, he stated, “Upon losing footing and falling, [I] felt a snap in left knee before landing on my backside.”²

In an August 15, 2013 form report, Dr. Reginald G. Moore, Jr., an attending Board-certified family practitioner, listed the date of injury as August 8, 2013. He noted that appellant reported injuring his left knee when he lost his footing on wet grass while walking down a slope. He listed antalgic gait and knee effusion as clinical findings and the “diagnosis due to injury” as internal derangement of the left knee. Dr. Moore advised that appellant could work eight hours a day with restrictions, including walking (with crutches) no more than one hour a day and standing (with crutches) no more than two hours a day. In an August 15, 2013 note, he diagnosed left knee pain. In another brief report dated August 15, 2013, Dr. Moore stated that appellant presented with “knee pain” and that he reported that he was “walking and slipped on wet grass and hurt his left knee at work as a postal worker.”³

The findings of August 15, 2013 x-rays of appellant’s left knee showed no fracture or dislocation of the knee with preserved joint space. It was noted that the lateral view was difficult to evaluate for joint effusion due to a poorly seen suprapatellar fat pad, but that no large joint effusion was detected. The clinical history portion of the report indicated that appellant reported left knee pain starting two weeks prior.

In an August 29, 2013 report, Dr. Moore indicated that appellant presented with “[follow-up] knee pain” and that he had reported that his symptoms began 22 days prior. In an injury status report dated August 29, 2013, he diagnosed internal derangement of the left knee and indicated that appellant could only return to limited-duty work after he was cleared by an orthopedic specialist.

In a September 18, 2013 form report, Dr. Donald A. Campbell, an attending Board-certified orthopedic surgeon, listed the date of injury as August 8, 2013. He noted that appellant reported falling and hurting his left knee. He listed the clinical findings and “diagnosis due to injury” as medial meniscus tear and recommended work restrictions.⁴

The findings of October 9, 2013 magnetic resonance imaging (MRI) scan testing of appellant’s left knee showed a complex tear of the posterior horn of the medial meniscus, mild medial collateral ligament sprain versus soft tissue inflammation without tear and osteoarthritis with cartilage loss from trochlea and medial femoral condyle. On October 23, 2013 Dr. Campbell noted that appellant had a left medial meniscus tear superimposed on

² Appellant did not stop work but in mid-September 2013 he began working in a limited-duty position for the employing establishment.

³ In an injury status report dated August 15, 2013, Dr. Moore indicated that appellant could return to limited-duty work in two weeks.

⁴ The findings of September 18, 2013 x-ray testing of appellant’s right arm showed no metal foreign body was seen in the visualized portions of the arm.

patellofemoral degenerative joint disease and recommended that he undergo a left knee arthroscopy.⁵

In a November 15, 2013 letter, OWCP requested that appellant submit additional factual and medical evidence in support of his traumatic injury claim.⁶

In a December 3, 2013 letter, appellant provided further description of the fall he sustained at work on August 8, 2013. While on his delivery route on August 8, 2013, he fell to the ground when walking down a slight incline with wet grass. Appellant felt something give in his left knee and, after a while, he got up and completed his duties for the rest of the day. He stated that he went to an urgent care unit on August 9, 2013 (an off workday) but was told that he could not be seen because it was a workers' compensation matter. Due to his dedication to his work, appellant delivered his mail route on August 10, 2013 and the following days. He then received medical care on August 15, 2013.⁷

In a September 18, 2013 narrative report Dr. Campbell noted that appellant reported the onset of knee problems in February 2013 when he fell while carrying mail at work. Dr. Campbell indicated that he thought "he has had about five more falls on various occasions." Appellant also reported falling on wet grass in August 2003 and stated, "The history at that time was of knee pain for two weeks, but as I get the history from [him], this dates all the way back to February of 2013." Dr. Campbell detailed examination findings noting that the left knee was completely stable with no laxity to varus and valgus stress. Appellant exhibited some left knee medial pain when he squatted and also complained of superlateral pain adjacent to the left patella. Dr. Campbell recommended a left knee arthroscopy to obtain a picture of the menisci and stated, "Seven months of knee symptoms following a fall with multiple episodes of falls in the interim, with medial joint-line tenderness, no effusion and no instability. This certainly sound like a medial meniscal tear."

By decision dated December 27, 2013, OWCP denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained a traumatic injury in the performance of duty on August 8, 2013. It accepted the August 8, 2013 work incident, but found that the medical reports of record did not provide a rationalized medical opinion relating the claimed left knee condition to the work factor.

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 timely filed within the applicable time

⁵ A request for authorization of such surgery was submitted to OWCP on November 11, 2013.

⁶ In another November 15, 2013 letter, OWCP noted appellant's request for authorization of left knee arthroscopy and requested that he submit additional evidence in support of this request.

⁷ Appellant indicated that he had suffered at least two falls at work on unspecified dates and that his leg was hurting during the workweek from July 27 to August 2, 2013. However, he appears to attribute the current condition of his left knee to the fall that he suffered at work on August 8, 2013.

limitation period of FECA, that an injury was sustained 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 These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁹

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. 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.¹⁰ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.¹¹

Causal relationship is a medical issue 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, 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.¹²

ANALYSIS

On August 14, 2013 appellant filed a traumatic injury claim alleging that he sustained a left knee injury on August 8, 2013 when he fell to the ground on a wet, downward slope in the performance of duty. He felt something snap in his left knee. Appellant did not stop work but in mid-September 2013 he began working in a limited-duty position for the employing establishment.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a traumatic injury in the performance of duty on August 8, 2013. OWCP accepted the August 8, 2013 work incident, but found that he did not submit sufficient medical evidence to establish that his left knee condition was due to the work factor.

⁸ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁹ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. § 10.5(q), (ee); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

¹⁰ *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

¹¹ *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, *id.*

¹² See *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

In an August 15, 2013 form report, Dr. Moore, an attending Board-certified family practitioner, listed the date of injury as August 8, 2013 and noted that appellant reported injuring his left knee when he lost his footing on wet grass while walking down a slope. He listed antalgic gait and knee effusion as clinical findings and the “diagnosis due to injury” as internal derangement of the left knee.¹³ The Board finds that this report is of limited probative value because Dr. Moore did not provide a rationalized medical report relating appellant’s left knee condition to his August 8, 2013 fall. Dr. Moore did not describe the August 8, 2013 in any detail or explain how it was competent to cause or aggravate the left knee condition. In a brief form report, he did not provide detailed results of any physical examination of appellant’s left knee. Dr. Moore’s report is of limited probative value for the further reason that he failed to provide a complete factual and medical history. There is no discussion of appellant’s left knee condition prior to August 8, 2013. Dr. Moore produced other reports in which he mentioned the August 8, 2013 fall and diagnosed left knee pain and internal derangement of the left knee, but these reports also lack medical rationale on the matter of causal relationship.

In a September 18, 2013 form report, Dr. Campbell, an attending Board-certified orthopedic surgeon, listed the date of injury as August 8, 2013 and noted that appellant reported falling and hurting his left knee. He listed the clinical findings and “diagnosis due to injury” as medial meniscus tear and recommended work restrictions. Dr. Campbell provided a different diagnosis than Dr. Moore. Further, he did not provide medical rationale regarding causal relationship. He did not explain how the August 8, 2013 fall could have caused a left medial meniscus tear. Dr. Campbell did not provide any history of appellant’s left knee condition prior to August 8, 2013. In other reports dated in September and October 2013, he noted that appellant had preexisting degenerative disease of his left knee, but he did not provide any discussion regarding why his left knee problems would not be solely due to this or some other nonwork-related medical condition.¹⁴

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 did not meet his burden of proof to establish that he sustained a traumatic injury in the performance of duty on August 8, 2013.

¹³ Dr. Moore indicated that appellant could work eight hours a day with restrictions on such actions as walking and standing.

¹⁴ Dr. Campbell also mentioned a fall that appellant reported happened at work on an unspecified date in February 2013, but he did not clearly indicate that this fall caused any injury. On appeal, appellant mentioned his difficulty in obtaining medical evidence and asserted that his left knee still bothered him. However, he did not identify rationalized medical evidence that supported his claim of a work-related left knee injury.

ORDER

IT IS HEREBY ORDERED THAT the December 27, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2014
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