

October 22, 2013. In an October 21, 2013 narrative statement, he stated that his injury occurred at approximately 5:10 p.m. on that day. Appellant finished his route and reported his injury to his supervisor.

In a hospital report dated October 21, 2013, Dr. Daniel Yu, Board-certified in emergency medicine, stated that physical and x-ray examination suggested a diagnosis of sprain. He addressed appellant's treatment plan and advised that he should be exempt from work.

In medical reports dated October 28 and November 13, 2013, Dr. Nasser Ani, an attending Board-certified orthopedic surgeon, obtained a history of the October 21, 2013 incident and appellant's family, social and medical background. He noted appellant's complaint about lower extremity pain. Dr. Ani listed findings on physical, neurologic and psychiatric examination. He assessed pain and effusion in the right lower leg and a tear of the medial meniscus of the right knee. In a November 13, 2013 note, Dr. Ani advised that appellant would remain off work for two weeks. On November 27, 2013 he diagnosed appellant as having osteoarthritis of the right knee. Dr. Ani released appellant to return to light-duty work as of December 2, 2013. In a note dated December 4, 2013, he advised that appellant could return to regular-duty work.²

By letter dated December 12, 2013, OWCP informed appellant that when his claim was received a limited amount of medical expenses was administratively approved as it appeared to be a minor injury with minimal or no lost time from work and the employing establishment did not controvert continuation of pay or challenge the merits of the case. It advised that his claim was now reopened for consideration as his medical bills have exceeded \$1,500.00 and the merits of the claim have not been formally considered. Appellant was advised that the evidence of record was insufficient to support his claim as the facts surrounding his injury were not clear and no diagnosis of any condition resulting from the October 21, 2013 injury had been provided. He was advised of the medical and factual evidence needed and was afforded 30 days to respond. OWCP requested that the employing establishment submit any medical evidence regarding treatment appellant received at its medical facility.

In a November 14, 2014 right knee magnetic resonance imaging (MRI) scan report, Dr. Mark A. Singer, a Board-certified radiologist, found an attenuated versus a chronically torn anterior cruciate ligament, severe tri-compartmental osteoarthritis with bone marrow edema, small joint effusion, mild edema, infrapatellar fat body, chondromalacia and a small popliteal cyst posteromedially. Dr. Singer suspected chronic sprained posterior cruciate ligament and tears of the medial meniscus and posterior horn/body segment with superficial erosions.

On February 10, 2014 appellant stated that at approximately 5:10 p.m. on October 21, 2013 he was finishing up his day when he felt pain in his knee and calf as he stepped out of his long-life vehicle. He reported his injury to his supervisor who told him to go to the hospital. At the hospital appellant was diagnosed as having a calf sprain. Two weeks later he was diagnosed as having a torn meniscus that required surgery based on an MRI scan. Appellant stated that there were no witnesses and that he had no symptoms prior to his injury.

² The record indicates that appellant returned to full-duty work at the employing establishment on December 5, 2013.

In a March 13, 2014 report, Dr. Ani noted appellant's complaint of right knee pain. He provided a history of the October 21, 2013 incident and appellant's family and social background. Dr. Ani listed findings on physical, neurologic and psychiatric examination and reiterated his prior diagnoses of osteoarthritis, a torn medical meniscus and effusion of the right knee and pain in the right lower leg. He recommended arthroscopic right knee surgery with meniscectomy as symptoms persisted and conservative treatment failed.

In an April 14, 2014 decision, OWCP accepted that the October 21, 2013 incident occurred as alleged. It denied appellant's claim, however, finding that he failed to submit sufficient medical evidence to establish that he sustained a right knee injury causally related to the accepted employment incident.³

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence⁵ 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.⁶

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.⁷ 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.⁸

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁹ 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

³ Following issuance of OWCP's April 14, 2014 decision appellant submitted new evidence. The Board lacks jurisdiction to review evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁶ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

⁸ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁹ *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).

identified factors.¹⁰ The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.¹¹

ANALYSIS

OWCP accepted that the October 21, 2013 incident occurred in the performance of duty. It found, however, that the medical evidence failed to establish that appellant sustained a right knee injury as a result of the accepted incident. The Board finds that appellant failed to provide sufficient medical evidence demonstrating that he sustained a right knee condition causally related to the October 21, 2013 employment incident.

Dr. Ani's reports and notes provided a history of the October 21, 2013 employment incident, listed examination findings, diagnosed pain and effusion of the right lower leg and torn medial meniscus and osteoarthritis of the right knee and addressed appellant's work capacity. However, did not provide a medical opinion addressing the causal relationship between the accepted employment incident and appellant's diagnosed right knee conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.¹² The Board finds that Dr. Ani's reports and notes are of diminished probative value and insufficient to establish appellant's claim.

Similarly, Dr. Singer's November 14, 2014 diagnostic test results which addressed appellant's right knee conditions is also insufficient to establish the claim, as this report does not provide a medical opinion addressing whether the accepted employment incident caused or aggravated the diagnosed conditions.¹³

Dr. Yu's October 21, 2013 report which found that physical and x-ray examination suggested a diagnosis of sprain is couched in speculative terms. The Board has held that medical opinions which are speculative or equivocal in character have little probative value.¹⁴ Moreover, Dr. Yu did not provide an opinion explaining whether the diagnosed condition was caused or aggravated by the accepted employment incident.¹⁵ The Board finds that his report is insufficient to establish appellant's claim.

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.

¹⁰ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

¹¹ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

¹² *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

¹³ *Id.*

¹⁴ *L.R. (E.R.)*, 58 ECAB 369 (2007); *Kathy A. Kelley*, 55 ECAB 206 (2004).

¹⁵ See cases cited, *supra* note 12.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a right knee injury on October 21, 2013 while in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the April 14, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 20, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board