United States Department of Labor
Employees' Compensation Appeals Board

P.C., Appellant	)	
	)	**Docket No. 15-1382**
and	)	**Issued: December 9, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Charlotte, NC, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On June 9, 2015 appellant filed a timely appeal from a January 9, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 her burden of proof to establish a left knee injury on May 27, 2014 while in the performance of duty.

FACTUAL HISTORY

On May 28, 2014 appellant, then a 43-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 27, 2014 she sustained a left knee injury while entering into her truck. She stated that when she got back in her truck, her left knee popped and it became

[1] 5 U.S.C. § 8101 *et seq.*

sore. By the next morning, it was difficult for appellant to move and she experienced pain when she put weight on her knee.

In a May 28, 2014 narrative statement, appellant reiterated her prior description of the May 27, 2014 incident. She scheduled an evaluation of her left knee condition for May 29, 2014.

A May 16, 2014 ambulatory work/school release form from Carolinas HealthCare System, containing an unknown signature, listed the date of injury as May 16, 2014. The form requested that appellant be excused that same day.

In a May 29, 2014 note, Edward Hall, a supervisor, related that appellant failed to notify her supervisor on Tuesday night or Wednesday morning about her knee issues. Appellant worked the entire day and did not submit a leave slip until Wednesday after completing both of her runs. Mr. Hall noted that appellant had provided documentation regarding an injection she had received for arthritis in her knee and that she would need an injection every three months. On May 13, 2014 appellant submitted a leave slip to attend a knee appointment as appellant contended that she could not wait for her next appointment in June. She had submitted a Form 3971 requesting sick leave on August 29, 2014 to receive an additional injection. Mr. Hall contended that her injury was not work related, but related to a prior injury for which she was receiving treatment.

An undated Form CA-16, authorization for examination, signed by Mr. Hall, authorized appellant's medical treatment related to the claimed May 27, 2014 injury. The description of injury was reported as a popped knee.

In undated office visit work/school excuse reports, Dr. Gordon K.W. Lam, a Board-certified internist, noted that appellant was evaluated in his office on May 29 and June 5, 2014 and that, due to medical necessity, she should be excused from work through June 20, 2014.

In an orthopedic visit note dated June 17, 2014, Dr. Brad A. Freidinger, a Board-certified orthopedic surgeon, provided a history that appellant was evaluated by Dr. Lam and noted her complaint of new left knee pain which she rated as 7 out of 10. Appellant reported an injury with a popping sensation that occurred about three weeks ago and an injury while getting out of her mail truck at work. Since then, she reported extreme difficulty with her knee. Appellant had swelling and an inability to twist and squat. She denied numbness or tingling. Dr. Freidinger provided a history of appellant's medical treatment, family and social background. He listed examination findings and diagnosed subacute medial meniscus tear of the left knee. Dr. Freidinger recommended knee arthroscopy as appellant was rather symptomatic, was having difficulty with twisting and squatting, and did not demonstrate an effusion. He also diagnosed left knee degenerative joint disease. Dr. Freidinger advised that appellant had preexisting arthritis which would not be cured by the recommended procedure, but it would help improve her symptomatology significantly given her new onset of meniscal pain.

In a June 17, 2014 work restriction report, he reiterated his diagnosis of left knee meniscus tear and surgery recommendation and advised that appellant would be unable to work during her four-to-six week postoperative recovery. In an orthopedic visit note dated July 10,

2014, he indicated that appellant had presented for her first postoperative visit status post left knee arthroscopy. Appellant was doing well and denied any complaints of fevers or chills. She had no nausea or vomiting. Her pain was controlled. Dr. Freidinger provided normal physical examination findings. He diagnosed status post left arthroscopy, partial meniscectomy, and chondroplasty medial femora I condyle and trochlea. Dr. Freidinger advised that she could not work at that time and that she should continue with activity restrictions as discussed.

A June 23, 2014 continuation of pay nurse report indicated that appellant stopped work on May 29, 2014 pending surgical repair of her left medial meniscus. Appellant's anticipated return to work was August 18, 2014.

By letter dated June 23, 2014, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional medical evidence. It also requested that the employing establishment submit medical evidence, if appellant had been treated at its medical facility.

In a July 28, 2014 decision, OWCP accepted that the May 27, 2014 incident occurred as alleged. However, it denied appellant's claim because she had failed to provide a rationalized medical opinion explaining how the accepted employment incident caused or aggravated her medical condition.

On August 19, 2014 appellant requested a review of the written record by an OWCP hearing representative.

In a May 29, 2014 report, Dr. Lam noted that appellant had presented as an urgent evaluation for acute left knee pain and swelling following a May 27, 2014 employment incident. He noted that when she was last seen on May 16, 2014, x-rays noted mild osteoarthritic changes along her knees bilaterally. Appellant received Kenalog injections which were helpful. Dr. Lam reported examination findings and provided an impression of quiescent polymyalgia rheumatic, osteoarthritis of the knees, shoulders, and elbows, confirmed mild osteoarthritis of the bilateral knees, ongoing functional somatic and central pain syndrome, Vitamin D deficiency, acute left knee. He reported that the cause of appellant's knee pain was uncertain.

In a June 4, 2014 left lower extremity magnetic resonance imaging (MRI) scan report, Dr. Scott R. Kennedy, a Board-certified radiologist, dictated and verified an impression of medial meniscal tear as described with mild medial joint line edema, tri-compartmental osteoarthritis that was most evident in the medial and patellofemoral compartments, and small to moderate joint effusion with popliteal cyst.

Dr. Freidinger reiterated his finding on July 10, 2014 that appellant was status post left knee arthroscopy. He advised that she was unable to work. In an August 19, 2014 report, Dr. Freidinger provided a history of the May 27, 2014 employment incident, referenced his June 17 and July 10, 2014 reports, and noted that appellant's left knee arthroscopy was performed on June 30, 2014. Dr. Freidinger opined that her injury was work related. He recommended that appellant be transitioned to a work van. In a work restrictions form dated August 19, 2014, Dr. Freidinger again advised that appellant could return to work on September 15, 2014 with transition to a work van. In an October 7, 2014 medical information

form and an undated medical restrictions assessment form, he listed appellant's physical restrictions and advised that she could return to full-duty work three months postoperative. Dr. Freidinger noted that she had pain with prolonged walking, squatting, and kneeling which impacted her work life and life outside work.

In a January 9, 2015 decision, an OWCP hearing representative affirmed the July 28, 2014 decision. She found that the medical evidence was insufficient to establish a left knee injury causally related to the accepted May 27, 2014 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence[3] 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 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]

[2] 5 U.S.C. §§ 8101-8193.

[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).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a traumatic injury caused by the accepted May 27, 2014 employment incident. Appellant failed to submit sufficient medical evidence to establish that the accepted employment incident caused a left knee injury.

Appellant submitted medical reports from Dr. Freidinger, an attending physician. In his August 19, 2014 report, Dr. Freidinger opined that appellant's left knee medial meniscus tear was causally related to the May 27, 2014 employment incident. He recommended that she be transitioned to a work van. Although Dr. Freidinger opined that appellant's condition was related to the accepted employment incident, he did not provide any medical rationale to support his conclusion. Medical evidence that states a conclusion but does not offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[10]

Dr. Freidinger's remaining reports are also insufficient to establish causal relationship. Within these additional reports, he did not provide an opinion stating that the accepted May 27, 2014 employment incident caused or contributed to appellant's diagnosed left knee conditions, resultant surgery, disability status, and work restrictions. The Board has found that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[11]

Dr. Lam's May 29, 2014 report provided a history of the May 27, 2014 employment incident. He listed findings on examination and provided an impression of quiescent polymyalgia rheumatic, osteoarthritis of the knees, shoulders, and elbows, confirmed mild osteoarthritis of the bilateral knees, ongoing functional somatic and central pain syndrome, acute left knee injury. Dr. Lam noted, however, that the cause of her knee pain was uncertain. As he did not opine that the accepted May 27, 2014 employment incident caused or contributed to appellant's left knee conditions, the Board finds that his report is insufficient to establish her claim.

Dr. Lam's remaining reports are likewise insufficient to establish causal relationship. He found that appellant was disabled for work from May 29 to June 20, 2014 due to medical necessity, but failed to provide any medical opinion stating that the accepted employment incident caused or contributed to her disability.[12]

Similarly, Dr. Kennedy's June 4, 2014 left lower extremity MRI scan report lacks a medical opinion on causal relationship.[13]

[10] *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

[11] *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

[12] *Id.*

[13] *Id.*

The May 16, 2014 note from Carolinas HealthCare System which contained an unknown signature is insufficient to establish appellant's claim. A report that is unsigned or bears an illegible signature lacks proper identification as a physician cannot be considered probative medical evidence.[14]

Therefore, the Board finds that there is insufficient medical evidence to establish that appellant sustained a left knee injury causally related to the accepted May 27, 2014 employment incident.

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.

The Board also notes that the employing establishment issued a Form CA-16 authorizing medical treatment.[15] The Board has held that when the employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.[16] Although OWCP denied appellant's claim for an injury, it did not address whether she would be entitled to reimbursement of medical expenses pursuant to the Form CA-16. Upon return of the case record, OWCP should further develop this issue.[17]

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof to establish a left knee injury on May 27, 2014 while in the performance of duty.

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

[15] 20 C.F.R. § 10.300 provides that, when an employee sustains a work-related traumatic injury requiring medical treatment, the employing establishment should issue a CA-16 form.

[16] *See* 20 C.F.R. § 10.300(c); *Tracy P. Spillane*, 54 ECAB 608 (2003).

[17] *See P.B.*, Docket No. 14-837 (issued August 12, 2014).

ORDER

IT IS HEREBY ORDERED THAT the January 9, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 9, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board