



## **FACTUAL HISTORY**

On June 16, 2014 appellant, then a 38-year-old letter carrier, filed a traumatic injury claim alleging that on June 12, 2014 he twisted his left knee when he tried to stop a dog from attacking him. He stopped work on June 13, 2014.<sup>3</sup>

In a letter dated June 24, 2014, OWCP advised appellant that his evidence was insufficient. It requested additional medical evidence to demonstrate whether he sustained a diagnosed condition as a result of the June 12, 2014 employment incident.

Appellant submitted hospital progress notes and emergency room records dated June 13, 2002 to September 5, 2003 which documented that appellant underwent left knee surgery twice for degenerative joint disease and an acromioclavicular (AC) injury.

In a June 12, 2014 notification of injury, appellant stated that he was delivering mail on the first floor when a dog from the second floor ran down the stairs and slammed into the door. As he used his right leg to keep the door closed, he twisted his left knee.

In a June 16, 2014 report, Dr. Adam Suslak, a Board-certified orthopedic surgeon, stated that on June 12, 2014 appellant was doing his normal route when a dog burst out of the door at one of his deliveries. When appellant tried to kick an apartment door closed with his right leg, his left leg buckled underneath him resulting in left knee pain. Dr. Suslak reviewed appellant's history and noted that he had two previous surgeries on his left AC. Upon examination of the left knee, he observed full passive range of motion with no effusion, varus or valgus instability, or obvious crepitus. Dr. Suslak, reported that x-rays of the left knee revealed mild-to-moderate osteoarthritis in the medial joint as well as patellofemoral compartment. He stated that appellant sustained an acute injury to his left knee on top of an old injury. Dr. Suslak explained that appellant had a chronic deficiency of his AC with moderate osteoarthritic features. He authorized appellant to return to work with restrictions of no walking the mail route and no repetitive kneeling or squatting. Dr. Suslak included a return to work note with these restrictions.

In a handwritten statement dated June 23, 2014, a witness with an illegible signature stated that he heard his dog make his usual noise when the mailman arrived. He went to the door to make sure it was locked and the mailman asked him not to open the door until he left. The witness stated there was no indication that the dog attempted to open the door and he believed it was physically impossible because the door was locked.

In a June 26, 2014 e-mail, Tammi L. Russell, a human resource specialist at the employing establishment, described a conversation she had with appellant regarding medical treatment for his left knee and a possible career change.

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<sup>3</sup> The record reflects that appellant filed two previous traumatic injury claims for a July 25, 2008 incident (File No. xxxxxx931) and a January 30, 2009 incident (File No. xxxxxx511) and an occupational disease claim on September 29, 2005 (File No. xxxxxx993).

In a June 27, 2014 report, Dr. Suslak stated that appellant injured his left knee while working as a letter carrier. He explained that appellant had chronic deficit of his left knee ACL and that this was most likely a chronic issue that was exacerbated by his recent injury. Dr. Suslak reported that appellant's examination was essentially unchanged with no obvious swelling of his left knee. He recommended that appellant return to work on July 7, 2014 with no restrictions and follow-up with him in four to five weeks to assess his response to return to work.

In a June 27, 2014 work capacity evaluation report and return to work note, Dr. Suslak indicated that appellant may return to work with no restrictions on July 7, 2014.

Dr. Suslak, in his July 1, 2014 attending physician's report, noted that on June 12, 2014 appellant sustained an acute injury to his left knee when he kicked a door shut. He diagnosed degenerative arthritis of the left knee and noted that appellant had two prior injuries. Dr. Suslak checked a box marked "yes" that appellant's condition was caused or aggravated by the employment activity. He noted that appellant was able to resume regular work on July 7, 2014.

In a July 3, 2014 case summary report, an agent from the U.S.P.S. Office of Inspector General (OIG) reviewed appellant's claim and the evidence submitted. He commented that he found no evidence of a diagnosed work-related condition and that the medical evidence showed that appellant had preexisting knee issues. The OIG inspector also stated that appellant's description of the June 12, 2014 employment incident contained several inconsistencies.

On July 7, 2014 appellant returned to work full time with no restrictions.

In a letter dated July 22, 2014, Ms. Russell stated that the employing establishment was controverting appellant's claim based on fact of injury and causal relationship. She questioned the validity of appellant's statement on how the alleged left knee injury occurred because the dog owner indicated that the dog never left the locked apartment. Ms. Russell also contended that the medical documents demonstrated that appellant had a preexisting left knee condition.

In a decision dated August 7, 2014, OWCP denied appellant's claim. It accepted that the June 12, 2014 incident occurred as alleged and that he was diagnosed with degenerative arthritis of the left knee. OWCP denied appellant's claim finding insufficient medical evidence to establish that his left knee condition was causally related to the accepted incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative, and substantial evidence<sup>5</sup> including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.<sup>6</sup>

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<sup>4</sup> 5 U.S.C. §§ 8101-8193.

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

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

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.<sup>7</sup> There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged.<sup>8</sup> Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.<sup>9</sup> An employee may establish that the employment incident occurred as alleged but fail to show that his disability or condition relates to the employment incident.<sup>10</sup>

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.<sup>11</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.<sup>12</sup> The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician’s opinion.<sup>13</sup>

When employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for periods of disability related to the aggravation. Where the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased, even if the employee is medically disqualified to continue employment because of the effect work factors may have on the underlying condition.<sup>14</sup>

### ANALYSIS

The record reveals that appellant had preexisting degenerative joint disease of the left knee and an AC injury, which resulted in two left knee surgeries. Appellant alleged that on June 12, 2014 he sustained a work-related left knee injury when he used his right leg to keep a door closed and twisted his left knee. OWCP accepted that the employment incident occurred as alleged and that appellant sustained a diagnosed left knee condition but denied his claim finding insufficient medical evidence to establish that his left knee condition was causally related to the

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

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

<sup>9</sup> *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

<sup>11</sup> *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>12</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>13</sup> *James Mack*, 43 ECAB 321 (1991).

<sup>14</sup> *Raymond W. Behrens*, 50 ECAB 221 (1999).

accepted incident. The Board finds that appellant did not meet his burden of proof to establish that his left knee condition was causally related to the June 12, 2014 employment incident.

Appellant submitted various reports by Dr. Suslak dated June 16 to 27, 2014. In the June 16, 2014 report, Dr. Suslak related that on June 12, 2014 appellant tried to keep a door closed with his right leg when his left leg buckled underneath him, causing left knee pain. He reviewed appellant's history and conducted an examination. Dr. Suslak opined that appellant sustained an acute injury to his left knee superimposed on an old injury. In the June 27, 2014 report, he explained that appellant had chronic deficit of his left knee AC that was exacerbated by his recent injury working as a letter carrier. Dr. Suslak also checked a box marked "yes" in a July 1, 2014 attending physician's report that appellant's condition was caused or aggravated by the employment activity.

The Board notes that Dr. Suslak provided an accurate history of injury, examination findings, and a medical diagnosis, however, he fails to provide any medical rationale or explanation for how the June 12, 2014 employment incident caused or contributed to his left knee condition. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.<sup>15</sup> Accordingly, Dr. Suslak's reports are insufficient to establish appellant's claim.

The issue of causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>16</sup> Because appellant has not provided such probative medical evidence in this case, the Board finds that he did not meet his burden of proof to establish his 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.

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that his left knee condition was causally related to the June 12, 2014 employment incident.

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<sup>15</sup> *T.M.*, Docket No. 08-975 (issued February 6, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>16</sup> *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, *supra* note 9.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 7, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 27, 2015  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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