

down to pick up some paperwork and fell on the floor in the office. She stated that she took one step and slipped. Appellant stopped work on May 16, 2014.

The employing establishment controverted appellant's claim alleging that her injury was not work related because she was wearing four-inch heels, which may have contributed to the severity of the ankle and knee injury.

By letter dated May 27, 2014, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested that she provide a detailed description of how her alleged injury occurred and a medical report with a physician's opinion explaining how the employment incident caused or contributed to her condition.

A May 16, 2014 employing establishment incident report indicated that on May 15, 2014 at approximately 3:30 p.m. appellant was completing routine office work when she slipped on the floor and injured her left ankle. Appellant reported that she was unable to stand, pivot, or walk on the leg. She reported the incident to her supervisor on May 16, 2014 and stated that she had a foot/ankle strain and would tentatively return to work on Monday. Appellant also submitted a Form CA-16 authorization for examination and/or treatment from Dr. Imran S. Nasir, a Board-certified family practitioner.

Appellant received medical treatment at the hospital. In a May 16, 2014 emergency room hospital report, Denise L. Buskill, a nurse practitioner, noted that appellant worked as a claims assistant. She related that on May 15, 2014 appellant slid on the floor and twisted her left knee and ankle. Ms. Buskill reported that appellant could not return to work until May 19, 2014.

In a May 16, 2014 report, Dr. Anne F. Fitzpatrick, a Board-certified diagnostic radiologist, noted appellant's complaints of left ankle pain after a fall. She reported that no acute fracture or subluxation was identified.

Appellant also received medical treatment from Dr. Nasir. In a May 22, 2014 report, Dr. Nasir stated that appellant presented with a compensation injury that occurred on May 16, 2014 when she fell awkwardly. He noted that she went to the emergency room and had x-rays done which were negative. Dr. Nasir related that appellant still had pain and difficulty with ambulation. Upon examination of the left ankle, he observed tenderness to palpation and marked tenderness to palpation around the lateral malleolus. Dr. Nasir also noted a decreased range of motion and difficulty with regulation. He diagnosed foot pain, joint pain localized in the knee, and lower back pain. In a work status note, Dr. Nasir indicated that appellant was under his care from May 22 to 29, 2014 and would be able to return to work on May 30, 2014.

In a May 30, 2014 work status note, Dr. Nasir diagnosed ankle sprain and immobility secondary to ankle injury, and stated that she could return to work on June 2, 2014.

On June 17, 2014 Pam Haycraft, a program support assistant for the employing establishment, controverted appellant's claim. She noted that appellant sought medical treatment at the emergency room with Dr. Nasir, but was diagnosed only with foot pain, which did not reflect an injury. Ms. Haycraft reported that appellant had the burden of establishing by the weight of the reliable, probative, and substantial medical evidence that she sustained a diagnosed medical condition related to her federal employment.

In a decision dated July 3, 2014, OWCP denied appellant's claim. It accepted that the May 15, 2014 incident occurred as alleged, but denied the claim finding that the medical evidence failed to demonstrate that she sustained a diagnosed medical condition as a result of the accepted incident.

On July 21, 2014 appellant requested a review of the written record and resubmitted various medical records. She also submitted a May 27, 2014 magnetic resonance imaging (MRI) scan examination of the left knee and report of Dr. J. Michael Smith, a Board-certified diagnostic radiologist, who noted that appellant complained of left ankle pain with swelling over the lateral malleolus. Dr. Smith related that on May 15, 2014 she twisted her ankle and left knee after a fall. He reported two foci moderate-grade chondromalacia, one along the medial patellar facet and median ridge of the patella, some marrow edema within the medial patellar facet, and nonspecific edema within the medial patellar retinaculum.

In a May 27, 2014 MRI scan examination of appellant's left ankle and hindfoot, Dr. Theresa M. Corrigan, a Board-certified diagnostic radiologist, noted that appellant experienced left ankle pain and swelling after she fell and twisted her ankle and knee on May 15, 2014. She observed mild anterior talofibular ligament sprain and mild peroneus brevis and longus tendinopathy without a tear.

Appellant continued to receive medical treatment from Dr. Nasir. In a July 14, 2014 narrative report, Dr. Nasir stated that she was his patient and had consulted him regarding a workers' compensation injury when she fell awkwardly at work. He noted that appellant was evaluated in the emergency room and the radiology examination was negative on both the foot and knee. Dr. Nasir reported that she presented with pain and difficulty with ambulation. Upon examination, he observed tenderness to palpation and marked tenderness and swelling of the left ankle around the lateral malleolus. Dr. Nasir also noted bruising, difficulty with regulation, and decreased range of motion. He stated that an MRI scan demonstrated a mild anterior talofibular ligament sprain and mild peroneus and long tendinopathy without a tear. Dr. Nasir diagnosed left sprain/strain due to a fall at work. He opined that appellant's injury was due to the fall. Dr. Nasir reported that she was unable to work from May 22 to 30, 2014.

By decision dated January 7, 2015, an OWCP hearing representative denied modification of the July 3, 2014 denial decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence³ including that he or she sustained an injury in the performance of duty and that any

² 5 U.S.C. §§ 8101-8193.

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

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 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.⁷ An employee may establish that the employment incident occurred as alleged but fail to show that his or her disability or condition relates to the employment incident.⁸

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.⁹ 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.¹⁰ 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.¹¹

ANALYSIS

Appellant has alleged that on May 15, 2014 she sustained a left ankle and knee injury when she bent down to pick up paperwork and fell on the floor at work. OWCP accepted that the May 15, 2014 incident occurred as alleged, but denied the claim finding insufficient medical evidence to establish that she sustained a diagnosed condition as a result of the accepted incident.

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 *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

⁹ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

¹¹ *James Mack*, 43 ECAB 321 (1991).

The Board finds that appellant did not meet her burden of proof to establish her traumatic injury claim.¹²

Appellant submitted various reports by Dr. Nasir dated May 22 to July 14, 2014. Dr. Nasir related that on May 16, 2014 she sustained an injury at work when she fell down awkwardly. Appellant continued to complain of pain and difficulty with ambulation. Upon examination of the left ankle, Dr. Nasir observed marked tenderness to palpation around the lateral malleolus. He also noted decreased range of motion and difficulty with ambulation. Dr. Nasir reported that an MRI scan examination demonstrated a mild sprain and mild peroneus and long tendinopathy without a tear. He diagnosed left ankle sprain/strain and opined that appellant's injury was due to a fall at work. The Board notes that Dr. Nasir provided examination findings, a medical diagnosis, and an opinion on causal relationship. Dr. Nasir did not, however, provide any medical rationale or explanation for how appellant sustained a sprained ankle as a result of the May 15, 2014 employment incident. The Board has held that medical evidence which simply 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.¹³ Therefore, the Board finds that Dr. Nasir's reports are insufficient to establish appellant's claim.

Appellant also received medical treatment at the emergency room. In a May 16, 2014 hospital record, a nurse practitioner related that on May 15, 2014 appellant twisted her left knee and ankle when she slid on the floor at work. This report is of no probative value, however, as nurses are not physicians as defined under FECA.¹⁴

The additional diagnostic reports by Drs. Fitzpatrick, Smith, and Corrigan likewise fail to establish appellant's traumatic injury claim. Although these physicians diagnosed left knee and ankle conditions and mentioned the May 15, 2014 work incident, none of the physicians provided any opinion on the cause of appellant's left knee and ankle conditions or attributed appellant's conditions to the May 15, 2014 employment incident. 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.¹⁵ Accordingly, these diagnostic reports are insufficient to establish that appellant sustained a left ankle or knee sprain causally related to the May 15, 2014 employment incident.

¹² The Board notes that the employing establishment issued a Form CA-16 authorization for medical treatment in this case. Where an 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. *See Tracey P. Spillane*, 54 ECAB 608 (2003). *See also* 20 C.F.R. §§ 10.300 and 10.304.

¹³ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹⁴ Section 8102(2) of FECA provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹⁵ *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

On appeal, appellant provided a detailed description of the May 15, 2014 employment incident and the medical treatment she received after the incident. The Board notes that OWCP has accepted that the May 15, 2014 employment incident occurred. OWCP denied appellant's claim because the medical evidence failed to establish that she sustained a diagnosed condition as a result of the May 15, 2014 incident. The issue of causal relationship is a medical question that must be established by probative medical opinion from a physician.¹⁶ Because appellant has not provided such probative medical evidence in this case, the Board finds that she did not meet her burden of proof to establish her 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 her burden of proof to establish a left knee or ankle condition as a result of the May 15, 2014 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the January 7, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 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

¹⁶ *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, *supra* note 7.