United States Department of Labor
Employees' Compensation Appeals Board

L.G., Appellant	)	
and	)	**Docket No. 15-1226**
	)	**Issued: November 16, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Cinnaminson, NJ, Employer	)	

Appearances:
Thomas R. Uliase, Esq. for the appellant
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 May 8, 2015 appellant, through counsel, filed a timely appeal from a February 26, 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 has established a left knee condition causally related to the July 5, 2013 employment incident.

FACTUAL HISTORY

On August 9, 2013 appellant, then a 49-year-old distribution clerk, filed a traumatic injury claim (Form CA-1) alleging that on July 5, 2013 she sustained an anterior cruciate ligament (ACL) tear to her left knee. She related that, after pulling equipment from loading

[1] 5 U.S.C. § 8101 *et seq.*

dock, her left knee felt strange and was clicking, popping, and unstable. After going to the branch office, appellant noticed that her knee had started to swell. She stopped work on July 8, 2013 and returned to work on July 22, 2013. The employing establishment indicated that appellant failed to follow instructions and failed to obey safety policy to push mail transportation equipment.

In July 8, 2013 reports, Dr. Susan W. Laws-Mobilio, an osteopath and family practitioner, noted that appellant was under her care for internal derangement of the left knee. She indicated that appellant needed x-rays and magnetic resonance imaging (MRI) scans and would be referred to orthopedics. Dr. Laws-Mobilio took appellant off work through July 22, 2013.

Several reports were received from Dr. Mitesh Patel, a Board-certified family practitioner also certified in sports medicine. In an August 9, 2013 note, Dr. Patel reported that appellant was seen for her "knees" and that she could work with restrictions. In an August 16, 2013 attending physician's report, he reported the history of injury as left knee locked up at work, resulting in pain. Dr. Patel also noted that appellant had evidence of advanced osteoarthritis. He diagnosed left knee degenerative joint disease (DJD) with ACL tear, as evidenced by MRI scan. Dr. Patel opined with a checkmark "yes" that appellant's DJD was aggravated by work, but that the ACL tear was acute. In an August 16, 2013 work note, he opined that she could work light duty for only six hours per day. In an August 29, 2013 duty status report, Dr. Patel noted that appellant was pulling mail filled equipment, and felt clicking and popping in her knee. He diagnosed knee pain due to the injury and provided work restrictions.

In a January 11, 2014 report, Dr. Patel noted that appellant had a chronic history of osteoarthritis in both knees which, prior to his evaluation, was being managed conservatively with corticosteroid injections, anti-inflammatories, and analgesics and recommendations for low-impact exercises. He noted that she initially presented to him on July 11, 2013 with complaints of chronic bilateral knee pain, with left knee worse than the right. Appellant informed Dr. Patel that she had injured her left knee on July 5, 2013 while at work pulling some equipment from the loading dock. She reported clicking and popping in the left knee, her knee locking up later that shift, followed by significant swelling, with no ability to bear weight. Appellant also reported that the knee felt unstable.

Dr. Patel reported that, on the July 11, 2013 initial examination, appellant had no ecchymosis or erythema, but had trace swelling in the left knee. Appellant had a significant varus deformity of both knees with tenderness in the joint lines, severe retropatellar crepitus with limited range of motion in both knees. Her strength was 5/5 in flexion and extension bilaterally. McMurray's testing was positive for reproduction of pain medially in the left knee. Lachman's examination was 2+ in the left knee with a soft endpoint. X-rays of the bilateral knees demonstrated complete joint space collapse at the medial tibiofemoral compartments bilaterally with marginal osteophytes and advanced degeneration of the patellofemoral compartments bilaterally. Appellant also had some medial migration of her right femur. Dr. Patel's impression was end-stage osteoarthritis in both knees. He noted that the July 10, 2013 MRI scan of the left knee revealed advanced tricompartmental osteoarthritis, complex medial meniscus tear, and an anterior cruciate ligament tear. Dr. Patel noted the medical treatment for appellant's other office visits, noting that her left knee was still painful, unstable, and limiting in terms of how much

activity she could tolerate. He reported that she remained on partial disability to this date and it was his understanding that she was only working a six-hour shift.

Dr. Patel opined that appellant's left knee arthritic condition was aggravated by the July 5, 2013 injury. He noted that she has experienced minimal improvement with aggressive conservative treatment and needed a total knee replacement. Dr. Patel also indicated that appellant's knee was unstable because she was ACL deficient. He noted "it is possible that the ACL was an acute tear from the incident that [appellant] described on July 5, 2013 and this certainly could have aggravated the arthritis and overall stability of her left knee." Dr. Patel further opined that appellant's left knee pain "is an exacerbation and perhaps an acceleration of the injury that occurred on July 5, 2013."

In a June 5, 2014 supplemental report, Dr. Patel clarified his medical rationale for his conclusion. He indicated that he felt on July 5, 2013 appellant injured her left knee, which resulted in an acute exacerbation of her underlying osteoarthritis as well as acute instability from an ACL tear. The rationale behind this conclusion was based on her clinical evaluation and the July 18, 2013 MRI scan imaging of the left knee, which showed osteoarthritis along with an ACL tear and medial meniscus tear. Dr. Patel noted that appellant had permanent work restrictions as a result of the injury and would need a total knee replacement.

In a June 25, 2014 letter, OWCP advised appellant of the deficiencies in her claim and provided her the opportunity to submit additional factual and medical evidence. This included a physician's rationalized opinion as to how her work factors resulted in the diagnosed condition. Appellant was afforded 30 days in which to provide such information. No further evidence was received.

By decision dated July 30, 2014, OWCP denied the claim as the medical evidence failed to establish that the diagnosed left knee conditions were causally related to the established work-related event(s).

In an August 5, 2014 letter, appellant, through counsel, requested a hearing, which was held by video on December 5, 2014. A copy of a May 16, 2006 MRI scan report and the July 18, 2013 MRI scan report of the bilateral knees were provided. Dr. Patel's July 11 and August 2, 2013 reports were also provided. In his August 2, 2013 report, he noted that appellant has an ACL tear in the left knee, which may have been acute since early July 2013. Dr. Patel also noted that she had a significant medial meniscus tear of the left knee.

By decision dated February 26, 2015, an OWCP hearing representative affirmed the July 30, 2014 OWCP decision.

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

[2] *Id*. at §§ 8101-8193.

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 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]

Under FECA, when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.[9] Where the medical evidence supports an aggravation or acceleration of an underlying condition precipitated by working conditions or injuries, such disability is compensable.[10] However, the normal progression of untreated disease cannot be stated to constitute aggravation of a condition merely because the performance of normal work duties reveals the underlying condition.[11] For the conditions of employment to bring about an aggravation of preexisting disease, the employment must cause acceleration of the disease or precipitate disability. When the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation ceased.[12]

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.[13] 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

[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] *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] *Raymond W. Behrens*, 50 ECAB 221 (1999); *James L. Hearn*, 29 ECAB 278 (1978).

[10] *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

[11] *Glenn C. Chasteen*, 42 ECAB 493 (1991).

[12] *Raymond W. Behrens*, *supra* note 9.

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

relationship between the diagnosed condition and the specific employment factors identified by the employee.[14] 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.[15]

ANALYSIS

Appellant alleged that on July 5, 2013 she injured her left knee when pulling equipment from the loading dock. OWCP accepted that the incident occurred as alleged, but denied her traumatic injury claim finding insufficient medical evidence to establish that her diagnosed left knee conditions were caused or aggravated by the July 5, 2013 incident.

In support of her claim, appellant submitted reports by Dr. Laws-Mobilio dated July 8, 2013. While Dr. Laws-Mobilio diagnosed internal derangement of the left knee, she did not provide a history of the July 5, 2013 work incident or an opinion on how the diagnosis was causally related to the accepted July 5, 2013 work incident. The Board has held 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.[16]

Appellant also submitted numerous reports from Dr. Patel. In his August 2, 2013 report, Dr. Patel noted that she had an ACL tear in the left knee, which may be acute since early July 2013. He also related that appellant had significant medial meniscus tear in the knee. However, Dr. Patel failed to provide a well-rationalized medical opinion which explained how the July 5, 2013 work incident caused either the ACL tear or the medial meniscus tear in her left knee.[17] Moreover, his opinion that the ACL tear in the left knee may be acute since early July 2013 is speculative in nature. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.[18]

In the August 16, 2013 attending physician's report, Dr. Patel reported the history of injury and that appellant had a history of advanced osteoarthritis. He diagnosed left knee degenerative disc disease with ACL tear, as evidenced by MRI scan. Dr. Patel opined with a checkmark "yes" that appellant's condition was caused or aggravated by the work incident. The Board has previously explained that a report that addresses causal relationship with a checkmark is of diminished probative value and insufficient to establish causal relationship.[19] Dr. Patel noted that appellant's degenerative disc disease was aggravated, but the ACL tear was acute.

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

[15] *James Mack*, 43 ECAB 321 (1991).

[16] *C.B.*, Docket No. 09-2027 (issued May 12, 2010).

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

[18] *D.D.*, 57 ECAB 734, 738 (2006); *Kathy A. Kelley*, 55 ECAB 206 (2004).

[19] *See N.M.*, Docket No. 15-0704 (issued June 22, 2015).

However, he failed to provide a well-rationalized medical opinion which explained how the July 5, 2013 work incident aggravated the degenerative disc disease or resulted in an acute ACL tear.[20]

In his August 29, 2013 duty status report, Dr. Patel noted the history of injury and diagnosed knee pain due to the injury.[21] However, he does not provide any opinion on the cause of appellant's knee pain. The Board has held 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.[22]

In his January 11, 2014 report, Dr. Patel provided an accurate history of injury and noted his examination findings on appellant's visits. He opined that her left knee arthritic condition was aggravated by the July 5, 2013 injury and that her knee was unstable because her ACL was deficient. Dr. Patel noted "it is possible that ACL is an acute tear from the incident that [appellant] described on July 5, 2013 and this certainly could have aggravated the arthritis and overall stability of her left knee." He further opined that appellant's left knee pain "is an exacerbation and perhaps an acceleration of the injury that occurred on July 5, 2013." The Board notes that Dr. Patel's opinion on causal relation is again couched in possibility and is therefore speculative in nature.[23] Furthermore, Dr. Patel fails to provide an explanation as to how the July 5, 2013 incident caused an aggravation and/or an acceleration of appellant's left knee arthritic condition.

On June 5, 2014 Dr. Patel wrote a supplemental narrative indicating that the July 5, 2013 work incident caused an aggravation which resulted in an exacerbation of appellant's osteoarthritis and acute instability from an ACL tear. However, he failed to provide a well-rationalized medical opinion which explained how the July 5, 2013 work incident aggravated the degenerative disc disease or resulted in an acute ACL tear.[24] Likewise, Dr. Patel's reference to the MRI scan reports are also insufficient to establish causal relationship as there is no medical opinion on the cause of appellant's left knee conditions.

On appeal appellant, through counsel, contends that the evidence is sufficient to accept her claim. Several paragraphs from Dr. Patel's January 11 and June 5, 2014 reports were cited as evidence of a causal relationship. As previously discussed, however, Dr. Patel's reports lack the level of probative value necessary and are thus insufficient to establish that the July 5, 2013 employment incident caused her current left knee conditions or aggravated her preexisting condition. An employee's belief that the disease or condition was caused or aggravated by employment factors or incidents is insufficient to establish causal relationship.[25] Causal

[20] *Supra* note 17.

[21] The Board has held that pain is a description of a symptom, and not considered compensable medical diagnosis. *B.P.*, Docket No. 12-1345 (issued November 13, 2012); *C.F.*, Docket No. 08-1102 (issued October 2008).

[22] *Supra* note 16.

[23] *D.D.*, 57 ECAB 734, 738 (2006); *Kathy A. Kelley*, 55 ECAB 206 (2004).

[24] *Supra* note 17.

[25] *Jennifer Atkerson*, 55 ECAB 317 (2004).

relationship is a medical question that must be established by probative medical opinion from a physician.[26] As appellant failed to provide such probative medical opinion 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 establish that her left knee conditions were causally related to the July 5, 2013 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 16, 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

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