United States Department of Labor
Employees' Compensation Appeals Board

D.B., Appellant	)	
and	)	**Docket No. 16-0389**
	)	**Issued: April 7, 2016**
DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT CRAWFORDSVILLE SERVICE CENTER, Indianapolis, IN, 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
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On December 22, 2015 appellant filed a timely appeal from a July 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.[2]

ISSUE

The issue is whether appellant met her burden of proof to establish bilateral knee injuries causally related to the January 6, 2015 incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the issuance of the July 9, 2015 OWCP decision and on appeal, appellant submitted new evidence. The Board, however, is precluded from reviewing evidence which was not before OWCP at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c)(1).

On appeal appellant requests a second opinion medical examination to address her meniscus tear and arthritis conditions as recommended by Dr. Brian L. Badman, an attending Board-certified orthopedic surgeon. She contends that his statement adequately explains how she sustained her employment-related injury meniscus tear.

FACTUAL HISTORY

On February 13, 2015 appellant, then a 62-year-old budget analyst, filed a traumatic injury claim (Form CA-1) alleging that on January 6, 2015 she sustained a right knee sprain and bilateral knee contusions when she missed the curb due to snow and fell to the ground. Heather L. Sullivan signed the Form CA-1 on January 28, 2015 as a witness to the January 6, 2015 incident. The employing establishment received notification of appellant's injury on February 13, 2015.

In a February 18, 2015 medical report, Dr. Badman provided a history that on January 6, 2015 appellant fell at work while loading equipment into her car. He noted her complaint of a throbbing sensation, worse in the right knee than the left knee. Dr. Badman provided a history of appellant's medical treatment, family, and social background. He reported findings on physical and x-ray examination. Dr. Badman assessed bilateral knee arthrosis with recent flare of right knee greater than left knee. He indicated that appellant received an injection for her right knee condition on that day. In an April 15, 2015 report, Dr. Badman noted seeing appellant for a follow-up evaluation of her right knee. The previous injection appellant received did not provide any lasting relief. Dr. Badman listed examination findings and provided an impression of continued right knee pain following injection. He planned to obtain a magnetic resonance imaging (MRI) scan of the right knee to determine whether there was any stress reaction or underlying meniscus tear. In an April 17, 2015 right knee MRI scan report, Dr. Badman found osteoarthrosis.

In an April 30, 2015 right knee MRI scan report, Dr. Todd D. Greenberg, a Board-certified radiologist, found multifocal grade 4A chondromalacia in the patellofemoral compartment most notable in the lateral facet near the apex. He also found intermediate-grade chondromalacia in the moderate surface area of the lateral compartment cartilage. There was a three-centimeter lateral meniscal cleavage tear in the inner two-thirds. There was also intermediate to high-grade chondromalacia diffusely throughout the medial compartment. There was a 2.5 to 3 centimeter length tear in the inner two-thirds of the medial meniscal. Psuedoextrusion was at the mid-body. Capsulitis was present.

In a May 6, 2015 report, Dr. Badman provided physical examination findings and reviewed the results of the April 30, 2015 MRI scan of the right knee. He provided an impression of right knee meniscus tear with high-grade chondromalacia. Dr. Badman related that, despite the traumatic onset, some of appellant's underlying condition was likely degenerative in nature. Given the work-related injury, he recommended a second opinion as he did not personally think arthroscopic intervention would alleviate all of her present symptoms and it could contribute to further worsening of her underlying arthritic condition. Dr. Badman suspected that at some point appellant would likely require joint replacement. He concluded that arthroscopic intervention would not treat her arthritic conditions.

By letter dated June 3, 2015, OWCP advised appellant that it had handled her claim administratively and approved payment for a limited amount of medical expenses as she sustained a minor injury that resulted in minimal or no lost time from work. It noted that it would now formally adjudicate the claim as medical bills exceeded $1,500.00. OWCP advised appellant of the type evidence needed to establish her claim.

In a June 3, 2015 statement, appellant described the January 6, 2015 incident. She was carrying information technology equipment to her vehicle when she attempted to step up on a snow covered curb. Appellant's foot went down into the snow and she tripped on the curb. She fell, landing on both knees. Appellant maintained that her right knee took most of the trauma. She landed fully on her right side and was covered with snow. Appellant noted that her CA-1 form was signed by an employee at the Crawfordsville Service Center. She related that her injury occurred within work hours so no one else was outside at the time of her fall. After her fall, appellant continued to carry her laptop and work-related materials to her vehicle. On the next day she experienced soreness, but did not think any major injury had occurred. Appellant related that as the month progressed she had right leg pain, more pain while sitting, and pressure was applied to the back of her leg. Her knee did not hurt while pushing or pressing. Appellant had no additional injury. On February 18, 2015 she sought medical treatment from Dr. Badman. Appellant further described her pain and medical treatment.

In an undated statement, appellant requested authorization for a second opinion medical examination. She submitted e-mails dated February 11 to April 13, 2015 between her and the employing establishment regarding her medical treatment and management of her claim.

In a June 30, 2015 letter, the employing establishment indicated that appellant's injury occurred on government-leased property. Appellant was on the premises of her temporary-duty station at the time of injury. She was loading a laptop into her car during work hours because she only worked out of the Crawfordsville office one day a week. Appellant was driving her personal vehicle because she was responsible for getting to and from work.

In a July 9, 2015 decision, OWCP accepted that the January 6, 2015 incident occurred as alleged. However, it denied appellant's claim, finding that the medical evidence of record did not establish a causal relationship between her bilateral knee conditions and the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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[4] including that he or she sustained an injury in the performance of duty and that any

[3] *Supra* note 1.

[4] *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.[5]

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.[6] 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.[7]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[8] 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.[9] The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that she sustained a traumatic injury causally related to her accepted January 6, 2015 employment incident. Appellant failed to submit sufficient medical evidence to establish that she sustained bilateral knee injuries causally related to the accepted employment incident.

In support of her claim, appellant submitted several reports from Dr. Badman. In his May 6, 2015 report, he provided examination findings, reviewed the April 30, 2015 right knee MRI scan results, and diagnosed right knee meniscus tear with high-grade chondromalacia. Dr. Badman related that, despite the traumatic onset, some of appellant's underlying conditions were likely degenerative in nature. He recommended a second opinion given the work-related injury and his belief that arthroscopic intervention would not alleviate all of appellant's present symptoms. Also, the intervention could contribute to further worsening of her underlying arthritic condition. While Dr. Badman found that appellant sustained a work-related injury, he did not provide a history of injury or explain how the diagnosed right knee condition was caused or aggravated by the accepted January 6, 2015 employment incident. Medical reports without

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

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

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

[8] *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).

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

[10] *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.[11]

In reports dated February 18 and April 15, 2015, Dr. Badman noted appellant's history of injury, provided physical and x-ray examination findings, and diagnosed bilateral knee arthrosis with recent flare of right knee greater than left knee, continued right knee pain following an injection, and right knee osteoarthrosis. The Board has held that pain is a symptom, not a compensable medical diagnosis.[12] Moreover, Dr. Badman did not relate the diagnosed bilateral knee conditions to the accepted January 6, 2015 employment incident. He did not address how falling onto a snow covered curb caused appellant's bilateral knee conditions. 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.[13]

Similarly, Dr. Greenberg's April 30, 2015 diagnostic test results are of limited probative value. He addressed appellant's right knee conditions, but failed to provide an opinion addressing whether the diagnosed conditions were caused or aggravated by the January 6, 2015 employment incident.[14]

Therefore, the Board finds that there is insufficient medical evidence of record to establish that appellant sustained bilateral knee injuries causally related to the accepted January 6, 2015 employment incident.

On appeal, appellant requests a second opinion medical examination to address her meniscus tear and arthritis conditions as recommended by Dr. Badman. She contends that her physician's statement adequately explains how she sustained her employment-related injury meniscus tear. As discussed, Dr. Badman's reports are insufficient to establish causal relationship between appellant's diagnosed bilateral knee conditions and the accepted January 6, 2015 employment incident. Thus, the Board finds that appellant's request and argument are not substantiated.

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 has failed to meet her burden of proof to establish bilateral knee injuries causally related to the January 6, 2015 incident.

[11] *See R.C.*, Docket No. 15-315 (issued May 4, 2015); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

[12] *K.W.*, Docket No. 12-1590 (issued December 18, 2012).

[13] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

[14] *Id.*

ORDER

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

Issued: April 7, 2016
Washington, DC

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

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

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board