

FACTUAL HISTORY

On January 16, 2014 appellant, then a 52-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on that date her left knee gave way as she was pushing a chair and she fell on her knees. She claimed a left knee injury. Appellant stopped work on January 16, 2014 and did not return.

OWCP had previously accepted on December 18, 1997, under a separate case file number (xxxxxx253), bilateral knee contusions and bilateral knee internal derangement. It also accepted on January 3, 2013, under a case file number (xxxxxx406), left knee/leg sprain and temporary aggravation of preexisting left lower leg osteoarthritis. The medical documentation in the case file for the January 3, 2013 work injury shows that appellant had preexisting left knee tricompartment arthritis, moderate to severe, and patellofemoral chondromalacia, but that these conditions had not been accepted as work related. The files for these claims have been doubled with the file for the present claim.

Appellant returned to light-duty work for the employing establishment in April 2013. OWCP determined that under the claim for the January 3, 2013 work injury, there was a conflict between the December 11, 2013 opinion of Dr. Brian C. Leung, a Board-certified orthopedic surgeon who served as an OWCP referral physician, and the March 14, 2014 opinion of Dr. Richard Blecha, an attending Board-certified orthopedic surgeon, regarding whether she had residuals of her January 3, 2013 injury. It referred appellant and the case record to Dr. Narinder Aujla, a Board-certified orthopedic surgeon, for an impartial medical examination and opinion on the matter. In an April 29, 2014 report, Dr. Aujla determined that appellant ceased to have residuals of her January 3, 2013 injury.

In a June 13, 2014 decision, OWCP terminated appellant's wage-loss compensation and medical benefits in connection with the January 3, 2013 work injury claim because the weight of the medical opinion evidence, which rested with Dr. Aujla's opinion, established that appellant's medical residuals and disability related to the January 3, 2013 injury had ceased.

The record contains statements from coworkers who observed appellant immediately after the January 16, 2014 work incident or had the incident described to them by appellant. None of the coworkers actually witnessed the January 16, 2014 incident. A coworker indicated that the wheeled chair which appellant was pushing was inspected and found to be in proper functional condition. In a January 16, 2014 statement, another coworker indicated that he assisted appellant immediately after the injury and that she told him that her knee gave out and that she lost balance and could not help, but hit the floor. In a January 21, 2014 statement, a supervisor noted that when she arrived at the scene of the incident on January 16, 2014 appellant was sitting on the floor. She asked appellant what had happened and appellant responded that her leg just gave way when she was pushing the chair. In a January 21 2014 statement, a human resources specialist noted that she had spoken to appellant on January 14, 2014 regarding her light-duty status and that appellant claimed that she had left knee arthritis resulting from a work-related injury in 2006, an injury for which the employing establishment could not identify a claim.

In a statement dated February 1, 2014, appellant noted that on January 16, 2014 she was pushing a wheeled chair and fell. She indicated that she could not say if it was the chair that got away from her, but all she knew was that her legs gave way and she fell on both legs and arms. In a February 3, 2014 statement, appellant noted that she did not strike any objects as she fell to the floor.

In a January 15, 2014 report, Dr. Michael Jablonski, an attending Board-certified orthopedic surgeon, related appellant's left leg condition to her January 3, 2013 work injury. He pointed out that she had a long history related to her left knee with prior injuries in 1987 and 2000. Dr. Jablonski indicated that prior diagnostic testing showed evidence of arthritis and degenerative changes and that appellant reported complaints of pain with prolonged standing, walking, and increased activity. He indicated that her need for restrictions was related to her preexisting arthritis as well as the exacerbation from the January 3, 2013 work injury.

The emergency hospital care records from January 16, 2014, *i.e.*, the date of the falling incident, indicate that appellant gave a history that she was moving a chair and her left knee gave out. Appellant reported a history of knee pain "prior years ago."

On January 20, 2014 Dr. Robert Reppy, an attending chiropractor, provided a history that appellant fell while pushing a wheeled chair and that the chair got away from her. In a February 25, 2014 report, Dr. Samy Bishai, an attending Board-certified orthopedic surgeon, provided a history that she was pushing a chair and fell on her knees. He mentioned the January 3, 2013 work injury and the December 18, 1997 left knee injury. Dr. Bishai indicated that the mechanism of the injury on January 16, 2014 was that "[appellant's] left knee or leg gave out from underneath her and she fell on her knees and tried to break the fall with her arms." He noted that appellant's January 3, 2013 left knee injury had "caused [appellant] to suffer symptoms in her left knee joint frequently including giving way, popping, and pain in that joint so for the knee to give out is quite understandable from an injured knee."

By decision dated March 10, 2014, OWCP denied appellant's claim for a January 16, 2014 work injury because the evidence did not establish that she sustained an injury in the performance of duty. It determined that the January 16, 2014 fall was idiopathic and due to a nonoccupational pathology.

Appellant requested a telephonic hearing with an OWCP hearing representative in connection with OWCP's March 10, 2014 decision. During the hearing held on October 9, 2014 she testified about the injuries she sustained prior to January 16, 2014.

In a decision dated November 24, 2014, the OWCP hearing representative set aside OWCP's March 10, 2014 decision and remanded the case for further development. She found that the evidence established that appellant had preexisting left knee conditions, including nonwork-related arthritis and degenerative changes, and had seen Dr. Jablonski in follow-up for her left knee the day prior to the January 16, 2014 work incident. The hearing representative indicated that, although appellant noted that her left knee gave way because of conditions she attributed to prior work injuries, the only medical evidence directly addressing the cause of her fall was Dr. Bishai's February 25, 2014 report in which the fall was attributed to residuals of the January 3, 2013 left leg condition. She noted that Dr. Aujla had opined in his April 29, 2014

report that appellant's injury-related conditions had resolved, but that he had not indicated when the accepted temporary aggravation of left lower leg osteoarthritis ceased. The hearing representative instructed OWCP to obtain a reasoned supplemental opinion from Dr. Aujla as to when the accepted temporary aggravation of left lower leg osteoarthritis ceased.³

On remand, OWCP obtained a supplemental report from Dr. Aujla. In his January 27, 2015 report, Dr. Aujla indicated that "appellant's temporary aggravation of her left knee was stabilized around May 3, 2013 and the ongoing symptoms are related to the preexisting arthritis."

By decision dated March 10, 2015, OWCP found that appellant had not established that the injury sustained on January 16, 2014 occurred in the performance of duty because it was due to a nonoccupational pathology.

Appellant requested a second telephonic hearing with an OWCP hearing representative in connection with OWCP's March 10, 2015 decision. At the hearing held on October 21, 2015 she testified that her left knee gave out while moving a chair on January 16, 2014. Appellant asserted that she had not returned to work because, due to the January 16, 2014 fall, she also sustained herniated discs in her neck and back and a rotator cuff injury.

By decision dated December 14, 2015, the OWCP hearing representative affirmed OWCP's March 10, 2015 decision denying appellant's claim for a work-related January 16, 2014 injury. She concluded that appellant's January 16, 2014 fall occurred due to a nonoccupational pathology.⁴

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁵ The employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the

³ The hearing representative explained that if the weight of the evidence established that residuals of appellant's January 3, 2013 work injury had resolved prior to January 16, 2014, the left knee pathology existing on January 16, 2014, which caused her knee to give way, would be personal and nonoccupational and the work incident would be noncompensable. She noted that, if appellant continued to have residuals of the accepted January 3, 2013 injury, the cause of her fall on January 16, 2014 would be unexplained and the incident would be compensable.

⁴ The OWCP hearing representative noted that counsel had argued that OWCP should expand the accepted conditions to include arthritis and chondromalacia. She indicated that appellant has the burden of proof to establish that these conditions are related to the original work injury and she may seek expansion of her January 3, 2013 claim or file a new claim for an occupational disease.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

manner alleged. The employee must also submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within the coverage of FECA. Such an injury does not arise out of a risk connected with the employment and, therefore, it is not compensable.⁷ The question of causal relationship in such cases is a medical one, and must be resolved by medical evidence.⁸ However, as the Board has made equally clear, the fact that the cause of a particular fall cannot be ascertained, or that the reason it occurred cannot be explained does not establish that it was due to an idiopathic condition. This follows from the general rule that an injury occurring on the industrial premises during working hours is compensable unless the injury is established to be within an exception to the general rule.⁹ If the record does not establish that the particular fall was due to an idiopathic condition, it must be considered as merely an unexplained fall, one which is distinguishable from a fall in which it is definitely established that a physical condition preexisted the fall and caused the fall.¹⁰

ANALYSIS

On January 16, 2014 appellant filed a traumatic injury claim alleging that on that date her left knee gave way as she was pushing a chair and she fell on her knees. She claimed that she sustained a left knee injury. OWCP had previously accepted on December 18, 1997 bilateral knee contusions and bilateral knee internal derangement and on January 3, 2013 left knee/leg sprain and temporary aggravation of preexisting left lower leg osteoarthritis. The medical documentation in the case file for the January 3, 2013 injury shows that appellant had preexisting left knee tricompartment arthritis, moderate to severe, and patellofemoral chondromalacia, but these conditions were not accepted as work related. The files for these claims have been doubled with the file for the present claim.

In the present case, the medical evidence from appellant's treating physician, Dr. Bishai, indicated that the cause of the January 16, 2014 injury was that appellant's left knee or leg gave

⁶ *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *Julie B. Hawkins*, 38 ECAB 393, 396 (1987).

⁷ *Robert J. Choate*, 39 ECAB 103, 106 (1987).

⁸ *Amrit P. Kaur*, 40 ECAB 848, 853 (1989). The term "injury" as defined by FECA, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements, or conditions. *John D. Williams*, 37 ECAB 238, 240 (1985).

⁹ *Emelda C. Arpin*, 40 ECAB 787, 789 (1989).

¹⁰ See *Martha G. List (Joseph G. List)*, 26 ECAB 200, 204-05 (1974). OWCP's procedure manual indicates that if a fall is not shown to be caused by an idiopathic condition, it is simply unexplained and is, therefore, compensable if it occurred in the performance of duty. An idiopathic fall is one where a personal, nonoccupational pathology causes an employee to collapse, and an unexplained fall is one where the cause is unknown even to the employee. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.9c (August 1992).

out under her. Given this evidence, OWCP undertook to determine whether she had residuals of her January 3, 2013 work injury prior to January 16, 2014. It reasoned that, if the weight of the evidence established that residuals of appellant's January 3, 2013 work injury had resolved prior to January 16, 2014, the left knee pathology existing on January 16, 2014, which caused her knee to give way, would be personal and nonoccupational and the work incident would be noncompensable.¹¹ OWCP requested that Dr. Aujla, an impartial medical specialist who found that her temporary aggravation of preexisting left lower leg osteoarthritis had resolved, indicate whether she had residuals of the January 3, 2013 injury on January 16, 2014. Dr. Aujla opined that on January 16, 2014 appellant's left knee pathology was related to her preexisting arthritis. His opinion as an impartial medical specialist represents the special weight of the medical opinion evidence with respect to matter.¹²

The Board notes that appellant's statements regarding how the claimed January 16, 2014 injury occurred, *i.e.*, that her knee gave way, do not support a finding that the chair she was pushing on that date caused or contributed to her fall. The record further reflects that appellant struck the immediate supporting surface without intervention or contribution by any hazard or special condition of the employment.¹³ Dr. Bishai's opinion that her underlying knee pathology caused her knee to give way and Dr. Aujla's opinion that the underlying knee pathology was not work related, support a finding that the cause of her fall on January 16, 2014 was a nonoccupational pathology.¹⁴ For these reasons, the Board finds that appellant did not meet her burden of proof to establish an injury in the performance of duty on January 16, 2014.

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 an injury in the performance of duty on January 16, 2014.

¹¹ *See supra* notes 7 through 10.

¹² *R.S.*, Docket No. 08-1158 (issued January 29, 2009).

¹³ *See supra* note 7.

¹⁴ *See supra* notes 7 through 10.

ORDER

IT IS HEREBY ORDERED THAT the December 14, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 26, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board