



## ISSUE

The issue is whether appellant met her burden of proof to establish a right knee injury causally related to the accepted May 1, 2015 employment incident.

## FACTUAL HISTORY

On May 4, 2015 appellant, then a 29-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on May 1, 2015 she hit her right knee against an open desk drawer at work. The employing establishment noted that on Friday, May 1, 2015 the team leader escorted her to the health unit, but appellant did not formally report her alleged injury until Monday, May 4, 2015. The claim form does not indicate whether appellant stopped work.

Appellant was initially examined in employee health and underwent an x-ray examination. In a May 1, 2015 x-ray report, Dr. Christopher E. Pierpont, a Board-certified diagnostic radiologist, noted mild patellar enthesopathy, but an otherwise unremarkable examination.

In a May 1, 2015 employee health record, Dr. Lisa J. Nocera, Board-certified in emergency medicine, noted that appellant sustained blunt trauma to her right knee when she hit it on the side of her desk. She reviewed appellant's history and provided results on examination. Dr. Nocera observed tenderness and mild edema in the right knee. She related that an x-ray of the right knee revealed mild patellar enthesopathy. Dr. Nocera provided a duty status report (Form CA-17), that appellant could return to work on May 4, 2015 with restrictions.

Appellant underwent a follow-up examination on May 4, 2015 with Dr. Marjet Cordon, an attending physician, who noted that appellant had sustained blunt trauma to the right knee on May 1, 2015 and continued to complain of right knee pain and swelling. Upon examination, Dr. Cordon observed right medial tenderness and swelling of the right knee. She also related that appellant had difficulty getting out of a chair and was unable to bend the right knee. Dr. Cordon diagnosed right knee trauma and recommended light duty.

Dr. Steven Ross, a specialist in physical medicine and rehabilitation, indicated in a May 6, 2015 progress note that appellant complained of right knee pain for the past five days after she banged her right knee on an open desk drawer on May 1, 2015 at work. Appellant noted that she heard a pop and noticed immediate swelling. Dr. Ross reviewed her history and observed mild swelling of the right knee with no erythema and medial joint line tenderness. He provided range of motion findings. Dr. Ross advised that appellant should avoid deep knee flexions and heavy lifting.

In a May 15, 2015 progress note, Dr. Cordon related that appellant was a nurse who was examined for right knee injury. She noted that appellant was attending physical therapy without much improvement and still complained of pain, decreased flexibility, and strength. Dr. Cordon reported that appellant could continue working light duty. She provided a duty status report (Form CA-17), which authorized appellant to resume work full time with restrictions on May 15, 2015.

By letter dated May 18, 2015, OWCP advised appellant that the evidence was insufficient to establish her claim. It requested that she provide additional evidence to establish that she sustained a diagnosed condition as a result of the alleged employment incident. Appellant was afforded 30 days to submit this additional evidence.

Dr. Aldo Vitale, a Board-certified orthopedic surgeon, began to treat appellant and in a May 28, 2015 narrative report related that on May 1, 2015 she was sitting at a desk when she twisted and bumped her right knee on an open desk drawer. Appellant described a popping noise from the right knee. Upon examination, Dr. Vitale observed medial joint line tenderness in the right knee. Range of motion was full and stability was good. Dr. Vitale related that appellant's x-ray showed no bony abnormalities. He diagnosed right knee contusion. Dr. Vitale requested authorization for a magnetic resonance imaging (MRI) scan of the right knee to rule out a torn medial meniscus. He recommended that appellant abstain from working until the MRI scan was completed. Dr. Vitale submitted an authorization request for an MRI scan.

The employing establishment submitted a letter dated May 29, 2015 from a workers' compensation program manager who controverted appellant's claim. The manager asserted that the medical evidence failed to establish that appellant was diagnosed with a medical condition as a result of the alleged incident. She further noted that appellant was initially treated by employee health and cleared to return to duty with limitations, but on May 29, 2015 appellant submitted a report by Dr. Vitale who recommended that appellant be out of work for three weeks. A May 29, 2015 letter by the employing establishment offered appellant a full-time limited-duty position as a nurse pursuant to Dr. Cordon's medical restrictions.

Dr. Vitale continued to treat appellant and in a June 1, 2015 attending physician's report (Form CA-20), he noted a date of injury of May 1, 2015 and described that she was working when she hit her right knee on an open desk drawer and heard a pop. He diagnosed right knee contusion and again requested authorization for an MRI scan in order to rule out a torn meniscus.

On June 5, 2015 appellant informed the employing establishment that she was unable to accept her limited-duty position pursuant to her physician's order.

In a June 16, 2015 narrative report, Dr. Vitale related that appellant was seen for follow-up examination after a May 1, 2015 work injury when she twisted and bumped her right knee on an open drawer. He noted that he was waiting for authorization for an MRI scan in order to rule out a meniscus tear. Dr. Vitale related that appellant still complained of pain, particularly with certain activities. Upon examination, he observed medial joint line tenderness and pain upon range of motion past 130 degrees flexion. Dr. Vitale reported that appellant's knee was stable to varus and valgus stress and Spring sign was mildly positive. He diagnosed contusion of the right knee. Dr. Vitale provided a work status note recommending that appellant not work until her next evaluation on July 16, 2015, pending an MRI scan.

Appellant submitted various physical therapy progress notes beginning May 11, 2015.

In a decision dated June 19, 2015, OWCP denied appellant's traumatic injury claim. It accepted that the May 1, 2015 incident occurred as described, but denied her claim finding

insufficient medical evidence to establish a diagnosed condition as a result of the employment incident.

Following OWCP's denial decision, appellant underwent an MRI scan examination by Dr. Mark J. Decker, a Board-certified diagnostic radiologist, who reported in a July 14, 2015 report that she had a complete proximal anterior cruciate ligament (ACL) tear with no contusion or fracture, but that the medial collateral ligament and ligament complex were intact.

In an August 18, 2015 narrative report, Dr. Vitale described the May 1, 2015 employment incident when appellant was sitting at her desk at work and bumped her right knee on an open drawer. Appellant heard a "popping" noise and was examined at employee health. Dr. Vitale discussed the medical treatment she received and noted that a July 14, 2015 MRI scan of the right knee revealed a complete proximal ACL tear with no contusion or fracture. He related that he had examined appellant in his office on several occasions for complaints of right knee pain and feeling of instability on activity. Dr. Vitale reported examination findings of posterior anterior drawer test and slight valgus bilaterally and full range of motion bilaterally. He diagnosed complete tear of ACL of right knee. Dr. Vitale stated that "it is my definite opinion that [appellant] did sustain a complete tear of the ACL of the right knee as a result of the injury that she sustained on the job on May 1, 2015." He explained that appellant never had any problems with her right knee before this injury and had not sustained any new injuries after May 1, 2015. Dr. Vitale reported that she needed further treatment, including reconstruction of the ACL, in order to prevent degenerative changes of the right knee joint.

On October 20, 2015 OWCP received appellant's request, through counsel, for reconsideration. He described the May 1, 2015 incident and alleged that she now suffered from right knee patellar enthesopathy and a torn ACL of the right knee. Counsel stated that since May 28, 2015 appellant was medically and physically unable to perform her work duties. He noted that the May 1, 2015 employment incident was not disputed and asserted that Dr. Vitale's May 28, 2015 medical report had contained a diagnosis of right knee contusion, which is distinguished from simple pain. Counsel reported that given the May 1, 2015 incident and the medical diagnosis provided by Dr. Vitale, "it is reasonable to infer causal relationship." He alleged that OWCP had a duty to develop the evidence in appellant's claim and noted that he had attached a new medical report by Dr. Vitale.

By decision dated March 24, 2016, OWCP modified the June 19, 2015 denial decision. It accepted that the May 1, 2015 incident occurred as alleged and that appellant sustained a diagnosed right knee condition, but denied her claim finding insufficient medical evidence to establish that her right knee condition was causally related to the accepted incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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<sup>4</sup> including that he or she sustained an injury in the performance of duty and that any

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<sup>3</sup> *Id.*

<sup>4</sup> *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.<sup>5</sup>

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>6</sup> 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.<sup>7</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>8</sup> The employee may establish that the employment incident occurred as alleged, but fail to show that her disability or condition relates to the employment incident.<sup>9</sup>

Whether an employee sustained an injury causally related to an employment incident requires the submission of rationalized medical opinion evidence.<sup>10</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 incident identified by the employee.<sup>11</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>12</sup>

### ANALYSIS

Appellant alleged that on May 1, 2015 she sustained a right knee injury as a result of twisting and bumping her right knee against an open drawer at work. OWCP accepted that the May 1, 2015 incident occurred as alleged. However, it denied appellant’s claim finding insufficient medical evidence to establish that her right knee condition was causally related to the accepted incident. The Board finds that appellant has failed to establish a causal relationship between her right knee condition and the May 1, 2015 employment incident.

Dr. Nocera initially examined appellant in the employee health unit and related, in a May 1, 2015 health record, that appellant had sustained blunt trauma to her right knee after hitting it against her desk. She reported tenderness and mild edema in the right knee and related

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<sup>5</sup> *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>7</sup> *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

<sup>8</sup> *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

<sup>10</sup> *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>11</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>12</sup> *James Mack*, 43 ECAB 321 (1991).

that an x-ray examination demonstrated an otherwise unremarkable examination. Dr. Nocera provided a duty status report indicating that appellant could return to work on May 4, 2015 with restrictions, but did not provide any medical diagnosis other than blunt trauma. Accordingly, the Board finds that her opinion lacks probative value because she failed to provide a firm, medical diagnosis, or any explanation as to the cause of appellant's right knee trauma.<sup>13</sup> The additional employee health unit records dated May 4 to 15, 2015 by Drs. Cordon and Ross, also lack probative value because they contain no medical rationale causally relating appellant's right knee condition to the employment incident.<sup>14</sup> For these reasons, the Board finds that the employing establishment employee health unit records are insufficient to establish appellant's claim.

Appellant was also treated by Dr. Vitale who provided narrative reports dated May 28 to August 18, 2015. He described that on May 1, 2015 she was sitting at her desk at work when she twisted and bumped her right knee on an open desk drawer. Appellant noted that she heard a "popping" noise. Dr. Vitale observed medial joint line tenderness in the right knee. Range of motion and stability was good. Dr. Vitale initially diagnosed right knee contusion and requested authorization for an MRI scan examination in order to rule out a torn medial meniscus. He recommended that appellant not work pending an MRI scan examination. In an August 18, 2015 report, Dr. Vitale noted that she had undergone an MRI scan, which revealed a complete proximal ACL tear with no contusion or fracture. He diagnosed complete tear of ACL of the right knee. Dr. Vitale stated that "it is my definite opinion that the patient did sustain a complete tear of the [ACL] of the right knee as a result of the injury that [appellant] sustained on the job on May 1, 2015." He explained that appellant never had any injuries or problems with her right knee before the May 1, 2015 employment injury.

Dr. Vitale accurately described the May 1, 2015 employment incident and diagnosed right knee ACL tear. He opined that appellant had sustained the right knee ACL tear as a result of the on-the-job injury on May 1, 2015. Dr. Vitale, however, did not provide any medical rationale or explanation to support his opinion on causal relationship. He did not explain the mechanism of injury of how appellant's right knee ACL tear could have been caused or aggravated by hitting her right knee against an open desk drawer. 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> The only explanation that Dr. Vitale provided was that appellant did not have any right knee injuries or problems before the May 1, 2015 work injury. An opinion that a condition is causally related because the employee was asymptomatic before the injury, however, is insufficient, without sufficient rationale, to establish causal relationship.<sup>16</sup> Because Dr. Vitale has not provided sufficient medical rationale for his opinion on causal relationship, his reports failed to establish appellant's claim.

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<sup>13</sup> *Roy L. Humphrey*, 57 ECAB 238, 242 (2005); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>14</sup> *See D.C.*, Docket No. 14-120 (issued April 9, 2014).

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

<sup>16</sup> *T.M.*, *id.*; *Michael S. Mina*, 57 ECAB 379 (2006).

The additional diagnostic examinations, including the May 1, 2015 x-ray examination by Dr. Pierpont and the July 14, 2015 MRI scan examination by Dr. Decker, which revealed a right knee ACL tear, also fail to establish causal relationship. Neither Dr. Pierpont nor Dr. Decker provided an opinion on whether appellant's right knee condition was causally related to her employment. 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.<sup>17</sup>

On appeal, counsel alleges that the evidence submitted firmly supported appellant's traumatic injury claim. He asserts that OWCP placed an unreasonably high burden of proof upon her in requiring that she establish the medical component of fact of injury and causal relationship well beyond all reasonable doubt. The issue of causal relationship, however, is a medical question that must be established by probative medical opinion from a physician.<sup>18</sup> As previously explained, the medical evidence on the record was insufficient to establish such a causal relationship. The Board notes that OWCP properly reviewed the medical evidence. The mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>19</sup> Because appellant has failed to submit probative medical evidence to support causal relationship, the Board finds that she has not established a traumatic injury 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 has not met her burden to establish a right knee condition causally related to the May 1, 2015 incident.

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<sup>17</sup> *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).

<sup>18</sup> *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, *supra* note 8.

<sup>19</sup> *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 24, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 14, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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