

ISSUE

The issue is whether appellant has met her burden of proof to establish an injury to her left knee or ankle causally related to the accepted March 2, 2017 employment incident.

FACTUAL HISTORY

On June 8, 2017 appellant, then a 50-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that, at 1:25 a.m. on March 2, 2017, she sustained an injury to her left lower leg after she fell to the ground. The employing establishment noted that she did not submit medical evidence in support of her claim and asserted that she continued to work following the incident. It did not challenge that the incident occurred in the performance of duty. The employing establishment advised that appellant's duty hours were "as needed."

In a June 16, 2017 development letter, OWCP requested that appellant submit additional factual and medical evidence in support of her claim, including a detailed description of how her injury occurred and a report from her attending physician addressing causal relationship between a diagnosed condition and the identified work incident. It afforded her 30 days to submit the necessary evidence.

By decision dated July 17, 2017, OWCP denied appellant's traumatic injury claim. It found that she had not submitted sufficient medical evidence to establish a diagnosed condition causally related to the March 2, 2017 work incident. OWCP noted that appellant had not responded to its June 16, 2017 development letter.

Thereafter, appellant submitted a June 29, 2017 note from Dr. Sean C. Tracy, a Board-certified orthopedic surgeon. Dr. Tracy opined that she should sit more than half of the time and not lift over 10 pounds pending surgery. In a July 17, 2017 return to work activity prescription form, he indicated that appellant required left knee surgery and found that she was unable to work for three weeks.

Appellant on August 11, 2017 requested a telephonic hearing before an OWCP hearing representative.

In reports dated September 22 and October 11, 2017, Dr. Tracy provided work restrictions. On November 7, 2017 he found that appellant could resume work with no limitations.

During the hearing, held on January 25, 2018, appellant testified that she was walking to her car after her work shift when she slipped on ice or snow, twisting her ankle and injuring her left knee. She was parked in an employee-only lot. Appellant notified a supervisor of the incident the following morning when she arrived at work. She underwent surgery to repair a torn meniscus.

Subsequent to the telephonic hearing, appellant submitted a magnetic resonance imaging (MRI) scan study of the left knee, obtained on June 20, 2017. The study revealed mild degeneration of the posterior medial meniscus, mild-to-moderate suprapatellar effusion, mild patellar chondromalacia, a Baker's cyst, and a benign lesion.

In a June 29, 2017 report, Dr. Tracy evaluated appellant for left knee pain that began “about four months ago when [appellant] was at work and slipped on some snow outside of her job.” On examination, he found some fluid and tenderness of the posteromedial joint line. Dr. Tracy recommended a left medial meniscus debridement and chondroplasty. On June 5, 2017 he indicated that appellant should remain off work pending surgery scheduled for July 11, 2017.

On July 11, 2017 Dr. Tracy performed a left knee loose body removal and chondroplasty. He submitted progress reports dated July 17, August 21, and October 19, 2017 and return to work forms addressing disability dated July 17, August 7 and 21, September 22, and December 11, 2017. The record also contains reports from a physician assistant dated August 7, September 22, and December 11, 2017.³

By decision dated April 2, 2018, OWCP’s hearing representative affirmed the July 17, 2017 decision. He found that the factual evidence established that appellant twisted her knee on March 2, 2017 in the performance of duty, but that the medical evidence was insufficient to show that she sustained a diagnosed condition as a result of the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

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. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.⁷ Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.⁸

³ The employing establishment, in a February 20, 2018 letter, noted that appellant had described the March 2, 2018 incident in an accident report of that date as twisting her knee and ankle, but not falling onto the ground. It noted that she worked until June 8, 2017 and did not obtain medical treatment until June 29, 2017.

⁴ *Supra* note 2.

⁵ *See E.B.*, Docket No. 17-0164 (issued June 14, 2018).

⁶ *See P.S.*, Docket No. 17-0939 (issued June 15, 2018).

⁷ *See V.J.*, Docket No. 18-0452 (issued July 3, 2018).

⁸ *Id.*

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish an injury causally related to the accepted March 2, 2017 employment incident.

OWCP accepted that the employment incident of March 2, 2017 occurred as alleged and that appellant was in the performance of duty at the time that she twisted her knee in the parking lot of the employing establishment reserved for its employees. It denied her claim because she did not submit sufficient medical evidence supporting a medical diagnosis in connection with the claimed March 2, 2017 employment injury.

Dr. Tracy provided numerous reports and return to work forms dated June 29 to December 11, 2017 addressing the extent of appellant's disability and providing work restrictions. He did not, however, render an opinion on the cause of her disability or relate a diagnosed condition to the March 2, 2017 employment incident. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁰

On June 29, 2017 Dr. Tracy obtained a history of appellant experiencing left knee pain beginning four months earlier after she slipped on snow outside her workplace. He recommended a chondroplasty and debridement of the left medial meniscus. Dr. Tracy did not address whether the accepted March 2, 2017 work incident caused or aggravated a diagnosed condition or resulted in the need for surgery, and thus his opinion is of little probative value.¹¹

Appellant also submitted a left knee MRI scan and reports from a physician assistant. Diagnostic studies lack probative value on the issue of causal relationship as they do not address whether the employment incident caused any of the diagnosed conditions.¹² Additionally, reports from physician assistants lack probative value as they are not considered physicians under FECA.¹³

⁹ See *H.B.*, Docket No. 18-0781 (issued September 5, 2018).

¹⁰ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ See *D.M.*, Docket No. 16-1885 (issued February 15, 2017).

¹² See *C.D.*, Docket No. 17-2011 (issued November 6, 2018).

¹³ 5 U.S.C. § 8101(2); see also *A.M.*, Docket No. 18-0542 (issued November 1, 2018).

Appellant has the burden of proof to submit rationalized medical evidence establishing an injury causally related to the accepted March 2, 2017 employment incident.¹⁴ She has not submitted such evidence and thus has not met her burden of proof.¹⁵

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an injury to her left knee or ankle causally related to the accepted March 2, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 2, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 31, 2018
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

¹⁴ See *D.T.*, Docket No. 17-1734 (issued January 18, 2018).

¹⁵ See *D.S.*, Docket No. 18-0061 (issued May 29, 2018).