

FACTUAL HISTORY

On June 6, 2017 appellant, then a 35-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 26, 2017 he sprained his right knee in the performance of duty. He reportedly advised his supervisor that “his knee was hurting from a previous injury.”³

Medical evidence from Dr. Irene Mary O’Neill, an occupational medicine specialist, was submitted in support of his claim. In a May 26, 2017 work status summary, Dr. O’Neill noted that appellant was walking down steps, slipped, and twisted his right knee on December 10, 2015. She noted that the purpose of appellant’s visit was a new workers’ compensation injury with a May 22, 2017 date of injury. Dr. O’Neill diagnosed a sprain of unspecified site of the right knee and provided restrictions starting May 26, 2017. In another May 26, 2017 work status summary, she indicated that appellant was a letter carrier who strained his right distal hamstring tendons while descending stairs on December 10, 2015 and May 22, 2017. A sprain of unspecified site of the right knee was provided. In a June 16, 2017 work status summary, Dr. O’Neill diagnosed a sprain of unspecified site of the right knee. The date of injury was again reported as May 22, 2017.

In duty status reports (Form CA-17) dated May 26, June 2 and 16, 2017, Dr. O’Neill noted that appellant slipped on steps while delivering mail on May 22, 2017. She noted that this was a new injury and diagnosed sprain of unspecified site of the right knee as due to injury.

In June 2, 2017 patient visit discharge instructions, Dr. O’Neill noted a sprain of unspecified site of the right knee and indicated that appellant could return to work with restrictions on May 26, 2017.

By letter dated June 22, 2017, OWCP advised appellant as to the type of medical and factual evidence required to establish his claim. He was afforded 30 days to provide this information.

OWCP subsequently received a May 26, 2017 narrative statement from appellant. Appellant indicated that on Monday, May 22, 2017, he started to feel pain on his right knee while delivering his mail route and the pain did not stop until May 26, 2017. He further stated that the pain was from his right knee which he previously injured in 2016. Appellant requested to return to the doctor as he felt the pain again.

In a June 23, 2017 duty status report (Form CA-17), Dr. O’Neill noted that on May 26, 2017 appellant had descended stairs and sprained posterior right knee. She affirmed her prior diagnosis. Appellant was released to work with restrictions.

By decision dated July 24, 2017, OWCP denied appellant’s claim because he failed to establish that the claimed incident occurred as alleged. It found that the mechanism of injury did not match appellant’s statement.

³ Under OWCP File No. xxxxxx061, appellant has an accepted traumatic injury claim for right knee sprain, which arose on December 10, 2015.

LEGAL PRECEDENT

FECA provides for the payment of compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.⁴ The phrase “sustained while in the performance of duty” in FECA is regarded as the equivalent of the commonly found requisite in workers’ compensation law of arising out of and in the course of employment.⁵ An employee seeking benefits under FECA has the burden of proof to establish that an injury occurred while in the performance of duty.⁶ In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury, and generally, this can be established only by medical evidence.⁷

An employee has the burden of proof to establish the occurrence of an injury at the time, place, and in the manner alleged, by a preponderance of the reliable, probative, and substantial evidence.⁸ An injury does not have to be confirmed by eyewitnesses to establish that an employee sustained an injury in the performance of duty, but the employee’s statements must be consistent with the surrounding facts and circumstances and his subsequent course of action.⁹

A claimant must provide detailed factual information regarding the alleged employment incident or incidents.¹⁰ It must be clear what specific incidents appellant are alleging, when they occurred, and other relevant details of the circumstances surrounding the claimed injury.¹¹ The Board has also held that a claimant cannot establish fact of injury if there are inconsistencies in the evidence that cast serious doubt as to whether the specific event or incident occurred at the time, place, and in the manner alleged.¹² Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast sufficient

⁴ 5 U.S.C. § 8102(a).

⁵ *Valerie C. Boward*, 50 ECAB 126 (1998).

⁶ *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.115.

⁷ *See John J. Carlone*, 41 ECAB 354, 357 (1989).

⁸ *William Sircovitch*, 38 ECAB 756, 761 (1987); *John G. Schaberg*, 30 ECAB 389, 393 (1979).

⁹ *Charles B. Ward*, 38 ECAB 667, 67-71 (1987).

¹⁰ *J.N.*, Docket No. 17-0032 (issued April 21, 2017).

¹¹ *D.F.*, Docket No. 15-1745 (issued February 11, 2016).

¹² *Gene A. McCracken*, 46 ECAB 593 (1995); *Mary Joan Coppolino*, 43 ECAB 988 (1992).

doubt on an employee's statements in determining whether a *prima facie* case has been established.¹³

ANALYSIS

Appellant filed a traumatic injury claim alleging a right knee injury on May 26, 2017. OWCP denied appellant's claim, finding that the injury did not occur in the manner alleged.

It is undisputed that appellant was in the performance of duty on May 26, 2017. However, the factual evidence of record does not support appellant's claim of a traumatic injury on May 26, 2017.

Appellant did not provide a clear statement as to what specific activity contributed to his right knee injury. He did not describe any specific incident occurring on May 26, 2017, or any work activity he performed on that day beyond the general statement of "delivering my route." A traumatic injury is defined as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift.¹⁴

Appellant's CA-1 form did not provide a detailed account of the alleged incident or corroborating evidence. In his May 26, 2017 statement, he also presented no evidence regarding the specific mechanism of injury, as required in a claim for traumatic injury, nor did he allege that he experienced a specific event, incident, or exposure at a definite time, place, and in a specific manner.¹⁵ Rather, appellant stated that he started to feel pain on his right knee while delivering his route on Monday, May 22, 2017 and the pain did not stop until May 26, 2017. He noted that the pain was from his right knee which he had previously injured in 2016.¹⁶ Appellant did not reference exactly what duties he was performing on May 26, 2017 that either caused or aggravated his right knee condition. His recitation of the facts does not support his allegation that a specific event occurred which caused a work-related injury.¹⁷ It is noted that Dr. O'Neill indicated in her June 23, 2017 duty status report that on May 26, 2017 appellant was descending stairs and sprained his posterior right knee.

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 USC § 8128(a) and 20 CFR §§ 10.605 through 10.607.

¹³ *Robert A. Gregory*, 40 ECAB 478, 483 (1989).

¹⁴ 20 C.F.R. § 10.5(ee).

¹⁵ *See Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002).

¹⁶ The evidence of file reflects that appellant had previously injured his right knee and had sought treatment for a right knee injury on May 22, 2017.

¹⁷ *Paul Foster*, 56 ECAB 208 (2004) (the Board found that appellant had failed to establish fact of injury where his allegations were vague and undocumented and did not relate with specificity the cause or immediate consequences of the claimed injury).

CONCLUSION

The Board finds that appellant has not established that an injury was sustained in the performance of duty on May 26, 2017, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the July 24, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 5, 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