

FACTUAL HISTORY

On January 5, 2017 appellant, a 42-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that he injured his left knee in the performance of duty on January 3, 2017. He indicated that he was walking up some stairs when he heard his knee pop. Afterward, appellant experienced severe pain. He stopped work on the date of the alleged injury.

On January 3, 2017 appellant was treated in the emergency department at Staten Island University Hospital. He was seen by Dr. Benjamin D. Kessler, an emergency medicine specialist, and Lara M. West, a physician assistant. Appellant submitted discharge instructions, which included a diagnosis of left knee pain. He also submitted a note from Ms. West indicating he could return to work in three days.

In a January 12, 2017 development letter, OWCP advised appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

In response, appellant submitted a January 20, 2017 narrative statement indicating that he was delivering regular mail on the date of injury and he was half-way up the stairs as he was holding onto the railing when he felt the inside of his left knee pop and then freeze. He further indicated that he never had an injury to his left knee prior to this incident.

OWCP received additional emergency department treatment records from January 3, 2017. Dr. Kessler asserted that appellant was working that day when he “heard something pop” and then presented with complaints of left knee pain. An x-ray of the left knee showed no evidence of acute osseous abnormality and no evidence of acute fracture, dislocation, or joint effusion. The patella was in a normal location and joint spaces were preserved. Appellant was discharged with a diagnosis of left knee pain.

On January 13, 2017 Dr. Alexander Tejani, an orthopedic surgeon, repeated that appellant was being treated for his left knee and would be unable to work until magnetic resonance imaging (MRI) scan results were obtained.

In January 24, 2017 duty status (Form CA-17) and attending physician’s reports (Form CA-16), Dr. Tejani diagnosed left knee pain and continued to advise that appellant was totally disabled for work pending an MRI scan.

By decision dated February 17, 2017, OWCP accepted that the January 3, 2017 incident occurred as alleged, but denied appellant’s claim because he failed to submit evidence containing a medical diagnosis in connection with the injury or events.

On April 13, 2017 appellant requested reconsideration.

In a January 10, 2017 narrative report, Dr. Tejani continued to diagnose left knee pain and asserted that appellant felt significant pain on the medial aspect of his left knee on January 3, 2017 when he felt his knee buckle while at work.

On March 24, 2017 Dr. Tejani reiterated the factual history of appellant’s claim and continued to diagnose left knee pain.

In a March 24, 2017 duty status report (Form CA-17), Dr. Tejani diagnosed left knee injury and pain in range of motion (ROM) and continued to advise that appellant was totally disabled for work.

On June 20, 2017 Dr. Tejani released appellant to work on June 26, 2017 with limitations of working four to five hours per day until his next evaluation and pending MRI scan results.

Appellant also submitted an MRI scan of the right knee dated August 8, 2008 which demonstrated status post anterior cruciate ligament (ACL) repair.

By decision dated July 5, 2017, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

A claimant seeking benefits under FECA³ 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, including that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability claimed is causally related to the employment injury.⁴

To determine whether an employee sustained a traumatic 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 that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁵ The second component is whether the employment incident caused a personal injury.⁶ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is claimed is causally related to the injury.⁷

ANALYSIS

OWCP has accepted that the employment incident of January 3, 2017 occurred at the time, place, and in the manner alleged. The issue is whether appellant sustained an injury as a

³ See *supra* note 1.

⁴ 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

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

⁶ *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s). *Id.*

⁷ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

result. The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury related to the accepted January 3, 2017 employment incident.

Appellant submitted an MRI scan of the right knee dated August 8, 2008 which demonstrated status post ACL repair. However, this diagnostic study does not address the causality of appellant's left knee condition. Diagnostic studies are of limited probative value as they do not address whether the January 3, 2017 work incident caused any of the diagnosed conditions.⁸

Appellant also submitted evidence from a physician assistant. Certain health care providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.⁹ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁰

In his January 3, 2017 hospital report, Dr. Kessler diagnosed left knee pain and asserted that appellant was working that day when he "heard something pop." In a series of reports, Dr. Tejani diagnosed left knee pain and asserted that appellant felt significant pain on the medial aspect of his left knee on January 3, 2017 when he felt his knee buckle while at work. The Board finds that the diagnosis of "left knee pain" is a description of a symptom rather than a clear diagnosis of the medical condition.¹¹ Moreover, Dr. Tejani's diagnosis of "left knee injury and pain in ROM" of the left knee is not a firm diagnosis. For these reasons, the reports from Drs. Kessler and Tejani are insufficient to establish a medical diagnosis in connection with the alleged employment injury.¹²

Consequently, the Board finds that appellant has not met his burden of proof to establish his claim because he has not submitted competent medical evidence addressing how the January 3, 2017 work incident caused or contributed to a diagnosed medical condition or employment injury.

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.

⁸ See *R.S.*, Docket No. 17-1139 (issued November 16, 2017); *G.M.*, Docket No. 14-2057 (issued May 12, 2015).

⁹ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

¹⁰ *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1).

¹¹ See *P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

¹² Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

CONCLUSION

The Board finds that appellant has failed to meet his burden of proof to establish an injury causally related to the accepted January 3, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 5, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 24, 2018
Washington, DC

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

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

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