

FACTUAL HISTORY

On April 13, 2015 appellant, a 58-year-old maintenance mechanic, filed a traumatic injury claim (Form CA-1) alleging that, on April 10, 2015, he injured his right knee and lower back as a result of slipping and falling on rainwater on the floor while in the performance of duty. He did not stop work.

Appellant submitted physical therapy reports dated June 3 to 29, 2015 in support of his claim.

In an April 10, 2015 report, Dr. Isabel Baren, a Board-certified internist, noted that appellant sustained an injury to his right knee and lower back that day due to slipping and falling on a wet floor at work while checking out a rain leak by an elevator. Appellant reported having pain and discomfort in both areas, but had no obvious fracture and was able to walk, bend, sit, and stand.

On April 21, 2015 Dr. J. Todd Smith, a Board-certified orthopedic surgeon, diagnosed lumbar spondylosis, right knee osteoarthritis, lumbar strain, and knee strain. He asserted that appellant fell at work on April 10, 2015 as a result of slipping on a rainwater leak near an elevator. Dr. Smith noted that appellant had fallen on his back and started experiencing back pain and right knee pain. Appellant reported having a back condition 10 years prior, but had not seen a physician since that time. He further reported that he occasionally felt like his right knee would slip or give way, but he had not fallen because of this feeling of instability.

In a May 12, 2015 report, Dr. Smith noted that appellant was very elusive in his conversation and never directly answered questions. When he discussed appellant's underlying spondylosis and right knee osteoarthritis, Dr. Smith found that appellant was very defensive and refused to answer whether or not he believed that he had these conditions.

On June 2, 2015 Dr. Smith reported that appellant had not yet attended physical therapy and released him to work with the restrictions of lifting a maximum of 30 pounds and frequent lifting and/or carrying of objects weighing a maximum of 20 pounds.

In a July 7, 2015 report, Dr. Smith found that appellant continued to experience pain in his right knee. He found that appellant had a known underlying spondylosis of the lumbar spine, some underlying right knee osteoarthritis, and possibly some right knee internal derangement.

In a July 20, 2015 development letter, OWCP indicated that when appellant's claim was first received it appeared to be a minor injury that resulted in minimal or no lost time from work and, based on these criteria and because the employing establishment did not controvert continuation of pay or challenge the case, payment of a limited amount of medical expenses was administratively approved. It indicated that it had reopened the claim for consideration because appellant's medical bills had exceeded \$1,500.00. OWCP requested additional evidence and afforded appellant 30 days to respond to its inquiries.

Appellant subsequently submitted a narrative statement dated July 27, 2015 reiterating the factual history of his claim.

By decision dated August 24, 2015, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the April 10, 2015 employment incident.

On September 9, 2015 appellant requested an oral hearing before OWCP's Branch of Hearings and Review. He also submitted a physical therapy report dated June 30, 2015.

In a June 16, 2015 report, Dr. Smith diagnosed low back pain, right knee pain with spondylosis of the lumbar spine, and right knee pain with lumbar strain and right knee strain. He found that appellant was increasing his strength and range of motion with physical therapy and anticipated that he would reach maximum medical improvement in three weeks. Dr. Smith released appellant to light/medium work with restrictions on bending, lifting, and climbing.

A telephonic hearing was held before an OWCP hearing representative on May 12, 2016. Appellant provided testimony regarding his claim.

By decision dated July 28, 2016, an OWCP hearing representative affirmed the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 injury³ was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. A fact of injury determination is based on two elements. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her condition relates to the employment incident.⁵

² *Id.*

³ OWCP regulations define a traumatic injury 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. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

⁴ *See T.H.*, 59 ECAB 388 (2008).

⁵ *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 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 factors identified by the employee.⁶

ANALYSIS

OWCP accepted that the employment incident of April 10, 2015 occurred at the time, place, and in the manner alleged. The issue, therefore, is whether appellant's right knee and lower back conditions resulted from the April 10, 2015 employment incident. The Board finds that appellant has not met his burden of proof to establish causal relationship.

In his reports, Dr. Smith diagnosed lumbar spondylosis, right knee osteoarthritis, lumbar strain, and knee strain. He found that appellant had a known underlying spondylosis of the lumbar spine, some underlying right knee osteoarthritis, and possibly some right knee internal derangement. Dr. Smith noted that appellant fell at work on April 10, 2015 as a result of slipping on a leak by an elevator. Appellant fell on his back and started experiencing back pain and right knee pain. He reported having a back issue 10 years ago, but had not seen a physician since that time. Appellant further reported that he occasionally felt like his right knee would slip or give way, but he had not fallen because of this. The Board finds that Dr. Smith failed to provide sufficient medical rationale to explain the mechanism of how falling on a wet floor at work on April 10, 2015 caused or aggravated appellant's right knee and lower back conditions.⁷ Dr. Smith noted that appellant's conditions occurred while he was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how his physical activity at work actually caused or aggravated the diagnosed conditions.⁸ Dr. Smith's opinion was based, in part, on a temporal correlation. However, the Board has held that neither 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.⁹ The need for rationale is particularly important as the evidence of record indicates that appellant had preexisting right knee and lower back conditions. Dr. Smith did not otherwise sufficiently explain how or why diagnostic testing and examination findings led him to conclude that the April 10, 2015 incident at work caused or contributed to the diagnosed conditions. Thus, the Board finds that the reports from Dr. Smith are insufficient to establish that appellant sustained an employment-related injury.

⁶ *Id.*

⁷ The Board notes that Dr. Smith was limited in his ability to explain the mechanism of injury as he reported that appellant was very elusive in his conversation and never directly answered questions.

⁸ *See K.W.*, Docket No. 10-0098 (issued September 10, 2010).

⁹ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

In her report, Dr. Baren noted that appellant sustained an injury to the right knee and lower back on April 10, 2015 due to slipping and falling on a wet floor at work while checking out a rain leak by an elevator. Appellant reported having pain and discomfort in both areas, but had no obvious fracture and was able to walk, bend, sit, and stand. The Board finds that Dr. Baren's diagnosis of right knee and lower back pain is a description of a symptom rather than a clear diagnosis of the medical condition.¹⁰ Moreover, the Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish causal relationship between the appellant's condition and his or her employment factors.¹¹ Therefore, the Board finds that Dr. Baren's report is insufficient to establish that appellant sustained an employment-related injury.

Appellant further submitted evidence from physical therapists. These documents do not constitute competent medical evidence because a physical therapist is not considered a "physician" as defined under FECA.¹² As such, this evidence is also insufficient to meet appellant's burden of proof.

The Board finds that appellant has not submitted any rationalized medical evidence to support his allegation that he sustained an injury causally related to the accepted April 10, 2015 employment incident and failed to meet his burden of proof to establish a claim for compensation.

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 his burden of proof to establish that his right knee and lower back conditions are causally related to the accepted April 10, 2015 employment incident.

¹⁰ The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. See *P.S.*, Docket No. 12-1601 (issued January 2, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

¹¹ See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

¹² 5 U.S.C. § 8101(2); *Jennifer L. Sharp*, 48 ECAB 209 (1996) (physical therapists). See also *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 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