

**United States Department of Labor
Employees' Compensation Appeals Board**

C.C., Appellant)	
)	
and)	Docket No. 19-1071
)	Issued: August 26, 2020
U.S. POSTAL SERVICE, ISLAND LAKE POST)	
OFFICE, Island Lake, IL, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 16, 2019 appellant filed a timely appeal from an April 11, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

¹ Appellant timely requested oral argument before the Board. 20 C.F.R. § 501.5(b). By order dated August 19, 2020, the Board exercised its discretion and denied the request, finding that the arguments on appeal could adequately be addressed based on the case record. *Order Denying Request for Oral Argument*, Docket No. 19-1071 (issued August 19, 2020). The Board's *Rules of Procedure* provide that an appeal in which a request for oral argument is denied by the Board will proceed to a decision based on the case record and the pleadings submitted. 20 C.F.R. § 501.5(b).

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish diagnosed medical conditions causally related to the accepted February 7, 2018 employment incident.

FACTUAL HISTORY

On February 23, 2018 appellant, then a 51-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 7, 2018 he sustained right knee and right ankle injuries due to slippery conditions and snow while in the performance of duty. He stopped work on the date of injury and returned to work on February 8, 2018.

OWCP received a narrative medical report, diagnostic report, and a prescription dated August 2, 2018 by Dr. Harpreet S. Basran, a Board-certified orthopedic surgeon. In his August 2, 2018 narrative report, Dr. Basran noted that appellant presented for an orthopedic evaluation with a “chief complaint of left knee pain” sustained after an injury on ice at work on February 7, 2018 and exacerbated following a second injury at work on July 14, 2018. He indicated that both injuries were twisting injuries. Dr. Basran discussed findings on physical examination and reported that an x-ray of the left knee performed on the same day of his examination demonstrated joint space narrowing and hardware, including screws and a button from appellant’s prior reconstruction. He provided an impression of left knee pain after an injury at work on the above-noted dates. In an August 2, 2018 prescription, Dr. Basran again diagnosed left knee pain and ordered a magnetic resonance imaging (MRI) scan for evaluation of a meniscus tear.

OWCP also received narrative reports dated January 25 and February 21, 2019, a work status report dated January 25, 2019, and a prescription note dated February 21, 2019 by Dr. Robert T. Nixon, a Board-certified orthopedic surgeon, diagnosing left knee pain, effusion, and swelling, and finding that appellant likely had an aggravation of chondromalacia. In his January 25, 2019 narrative report, Dr. Nixon noted a history that he had symptoms of pain and swelling in his left knee that had been problematic over the course of the prior few weeks. He also noted that appellant had prior left knee injuries and surgery. Dr. Nixon indicated that appellant explained that he did not have any new injury or event. In his January 25, 2019 work status report, he advised that appellant could return to work with no restrictions as of that day. In his February 21, 2019 report, Dr. Nixon noted that appellant’s complaint of left knee pain had not responded to a cortisone injection, but he could continue to work. In a prescription note of even date, he ordered a left knee MRI scan.

In a development letter dated March 1, 2019, OWCP notified appellant that when his claim was received it appeared to be a minor injury that resulted in minimal or no lost time from work, and since the employing establishment had not controverted continuation of pay or challenged the case, a limited amount of medical expenses were administratively approved and paid. It noted that it had reopened the claim for formal consideration. OWCP informed appellant that the evidence submitted was insufficient to establish his claim. It advised him of the type of medical and factual evidence necessary to establish his claim and attached a questionnaire for his completion. OWCP afforded appellant 30 days to submit the requested evidence.

OWCP received a copy of Dr. Nixon’s February 21, 2019 report.

By decision dated April 11, 2019, OWCP denied appellant's traumatic injury claim finding that the evidence of record was insufficient to establish a diagnosed condition in connection with the accepted February 7, 2018 employment incident. It noted that pain was a symptom, not a medical diagnosis. OWCP concluded therefore that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including 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 of FECA,⁴ that an injury 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.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon 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. Second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁷

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ 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 specific employment factors identified by the employee.⁹

³ *Id.*

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

In a case in which a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish diagnosed medical conditions causally related to the accepted February 7, 2018 employment incident.

In support of his claim, appellant submitted a report dated August 2, 2018 from Dr. Basran. On August 2, 2018 he opined that the left knee pain was caused by the February 7, 2018 employment incident and an incident at work on July 14, 2018. The Board notes that OWCP has not accepted that an employment incident occurred on July 14, 2018. Dr. Basran did not make any diagnoses pertaining to the conditions which appellant claimed were employment related other than pain. However, the Board has held that pain is a symptom and not a compensable medical diagnosis.¹¹ The Board has also held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹² As Dr. Basran has not offered an opinion as to whether appellant's claimed conditions are causally related to the accepted February 7, 2018 employment incident, the Board finds that his August 2, 2018 report is insufficient to meet appellant's burden of proof.

In his remaining August 2, 2018 diagnostic report, Dr. Basran reviewed an x-ray of appellant's left knee. The Board has held, however, that diagnostic tests, standing alone, lack probative value as they do not provide an opinion on causal relationship between the employment incident and the diagnosed conditions.¹³

Appellant also submitted Dr. Nixon's narrative reports, work status report, and prescription dated January 25 and February 21, 2019 diagnosing left knee pain, effusion, and swelling, and finding that appellant likely had an aggravation of chondromalacia. In his January 25, 2019 narrative report, Dr. Nixon noted appellant's recent history of left knee symptoms and prior history of left knee injuries and surgery. His diagnosis of left knee pain, as noted above, is a symptom rather than a compensable medical diagnosis.¹⁴ Dr. Nixon did not make any diagnoses pertaining to appellant's claimed conditions or offer an opinion specifically relating a medical condition to

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *V.W.*, Docket No. 19-1537 (issued May 13, 2020); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹¹ See *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

¹² See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ See *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *C.T.*, Docket No. 20-0020 (issued April 29, 2020); *J.M.*, Docket No. 17-1688 (issued December 13, 2018).

¹⁴ *Supra* note 11.

the February 7, 2018 employment incident.¹⁵ For these reasons, the Board finds that the medical evidence from Dr. Nixon is insufficient to establish appellant's claim.

As there is no well-rationalized medical opinion presently of record before the Board establishing appellant's traumatic injury claim the Board finds that he has not met his burden of proof.¹⁶

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 his burden of proof to establish diagnosed medical conditions causally related to the accepted February 7, 2018 employment incident.

¹⁵ See *supra* note 12.

¹⁶ *T.J.*, Docket No. 19-1339 (issued March 4, 2020); *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *D.N.*, Docket No. 19-0070 (issued May 10, 2019); *R.B.*, Docket No. 18-1327 (issued December 31, 2018).

ORDER

IT IS HEREBY ORDERED THAT the April 11, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 26, 2020
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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