

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

_____)	
T.M., Appellant)	
)	
and)	Docket No. 20-0010
)	Issued: May 19, 2020
U.S. POSTAL SERVICE, POST OFFICE,)	
Holland, MI, Employer)	
_____)	

Appearances:
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On October 2, 2019 appellant, through counsel, filed a timely appeal from a June 3, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish bilateral knee conditions causally related to the accepted June 23, 2018 employment incident.

FACTUAL HISTORY

On July 7, 2018 appellant, then a 50-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 23, 2018 he sustained abrasions and scratches to his right leg when a case fell on him while in the performance of duty. He stopped work on June 25, 2018 and returned to work on July 3, 2018. On the reverse side of the claim form, appellant's supervisor, R.S., indicated that appellant had not reported the incident until July 3, 2019 and provided no medical documentation in support of his claim that he sustained extensive bruising as a result of the alleged incident. R.S. further asserted that while the case did fall, it did not fall on appellant's leg and there were no visible abrasions or cuts or no bleeding or bruising observed.

In a handwritten statement dated July 7, 2018, appellant noted that when he returned from his usual route on June 23, 2018, he needed to put away some supplies in his case. When he attempted to open the case by moving one of the sections in the case, it fell down and hit his right leg. Appellant asserted that because of this incident, he sustained bruising and extensive swelling to his lower right leg. He further noted that he missed four days of work as a result of his injury and spent that time icing and elevating his leg and treating with pain medication.

In a development letter dated July 18, 2018, OWCP informed appellant of the deficiencies in his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a factual questionnaire for completion. OWCP afforded appellant 30 days to respond.

In an August 8, 2018 response to OWCP's development questionnaire, appellant reiterated his account of the June 23, 2018 employment incident, noting that when he went to move part of his case it fell down, hitting his leg before landing on the ground. He indicated that he was very upset following the incident and spoke with his supervisor, who assured him that it was not his fault that the case fell. Appellant reported that he had cuts to his leg under his knee, as well as bruising and swelling of the leg. OWCP received seven photographs of his leg on August 16, 2018. Appellant again noted that this injury caused him to miss four days of work.

By decision dated August 22, 2018, OWCP accepted that the June 23, 2018 incident occurred, as alleged. However, it denied appellant's claim finding that there was no medical evidence containing a diagnosis in connection with the accepted June 23, 2018 incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 14, 2019 appellant requested reconsideration of the August 22, 2018 decision. In an accompanying statement dated March 11, 2019, he asserted that he had significant pain in his leg and could not obtain a doctor's appointment until January 4, 2019. Appellant noted that his doctor referred him for a magnetic resonance imaging (MRI) scan, which was completed on February 14, 2019 and revealed a meniscal tear in his right knee. He also noted that he had not

worked since January 26, 2019, due to another injury he sustained on that day to his right leg and foot when he exited his postal truck to deliver a parcel.

OWCP received a copy of the February 14, 2019 right knee MRI scan report, which revealed an impaction deformity along the anteromedial aspect of the medial femoral condyle and a lateral meniscus tear.

In a February 25, 2019 medical report, Dr. Samir Rajani, Board-certified in internal medicine, opined that appellant could not return to work until March 7, 2019 because of a right knee meniscal tear and an injury to cartilage of his right knee.

In a March 7, 2019 medical report, Dr. Joel R. Wolfe, a Board-certified orthopedic surgeon, diagnosed an acute right knee lateral meniscus tear. In a work status report of even date, he indicated that appellant's right knee lateral meniscus tear was a work-related injury and opined that appellant could return to work on March 8, 2019 with restrictions.

In a work status report dated April 18, 2019, Dr. Wolf diagnosed a left knee lateral meniscus tear and opined that appellant could return to work without restrictions on April 20, 2019.

By decision dated June 3, 2019, OWCP modified its prior decision finding that appellant had established both the factual and medical components of fact of injury. However, appellant's claim remained denied because the medical evidence of record was insufficient to establish that his diagnosed bilateral knee meniscus tears were causally related to the accepted June 23, 2018 employment incident.

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

³ *Supra* note 2.

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).

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

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish bilateral knee conditions causally related to the accepted June 23, 2018 employment incident.

In a February 25, 2019 medical report, Dr. Rajani diagnosed a right knee meniscal tear, but offered no history of injury or opinion regarding causal relationship between appellant's right knee meniscal tear and the accepted June 23, 2018 employment incident. Similarly, in an April 18, 2019 work status report, Dr. Wolfe diagnosed a left knee meniscus tear, but offered no opinion on the cause of appellant's diagnosed condition. The Board has held that medical evidence which does not offer an opinion on causal relationship is of no probative value on the issue of causal relationship.¹⁰ Therefore Dr. Rajani's February 25, 2019 report and Dr. Wolfe's April 18, 2019 report, are insufficient to establish appellant's claim.

In a March 7, 2019 medical report and a work status report, Dr. Wolfe diagnosed an acute right knee lateral meniscus tear and opined that it was a work-related injury. The Board finds that although he supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.¹¹ Dr. Wolfe did not sufficiently explain how or why the accepted June 23, 2018 employment incident could have resulted in or contributed to the diagnosed condition. Therefore, this report is also insufficient to establish appellant's claim.

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).

¹⁰ *M.F.*, Docket No. 19-1573 (issued March 16, 2020); *T.G.*, Docket No. 19-1441 (issued January 28, 2020); *D.B.*, Docket No. 19-0514 (issued January 27, 2020); *L.T.*, Docket No. 18-1603 (issued February 21, 2019).

¹¹ *J.W.*, Docket No. 18-0678 (issued March 3, 2020); *D.L.*, Docket No. 19-0900 (issued October 28, 2019).

Appellant also submitted the results of a February 14, 2019 MRI scan. The Board has held that diagnostic studies, standing alone, 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 This report is therefore insufficient to establish the claim.

As none of the medical evidence appellant submitted constitutes rationalized medical evidence sufficient to establish causal relationship between the accepted June 23, 2018 employment incident and his diagnosed bilateral knee conditions, the Board finds that he has not met his burden of proof.¹³

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 bilateral knee conditions causally related to the accepted June 23, 2018 employment incident.

¹² *K.S.*, Docket No. 19-1623 (issued March 19, 2020); *M.J.*, Docket No. 19-1287 (issued January 13, 2020).

¹³ *R.G.*, Docket No. 18-0792 (issued March 11, 2020).

ORDER

IT IS HEREBY ORDERED THAT the June 3, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 19, 2020
Washington, DC

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

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board