

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

G.B., Appellant)	
)	
and)	Docket No. 22-0269
)	Issued: August 8, 2022
DEPARTMENT OF THE AIR FORCE,)	
WRIGHT-PATTERSON AIR FORCE BASE,)	
OH, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On December 9, 2021 appellant filed a timely appeal from an October 20, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the October 20, 2021 decision, and on appeal, appellant submitted additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has established a medical condition causally related to the accepted November 19, 2020 employment incident.

FACTUAL HISTORY

On January 15, 2021 appellant, then a 57-year-old air conditioning equipment mechanic, filed a traumatic injury claim (Form CA-1) alleging that on November 19, 2020 he twisted his knee when stepping down off a ladder while in the performance of duty. He explained that this caused pain on the inside of his right knee. On the reverse side of the claim form appellant's supervisor acknowledged that appellant was injured in the performance of duty. Appellant stopped work on November 30, 2020.

In support of his claim, appellant submitted several personnel documents, including a Notice of Personnel Action (Form SF-50) indicating that he retired from the employing establishment on November 30, 2020.

In a development letter dated March 4, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary and provided questions for his completion.³ OWCP afforded appellant 30 days to respond. No further evidence was received.

By decision dated April 9, 2021, OWCP denied appellant's traumatic injury claim, finding that the factual component of fact of injury had not been established. It noted that he did not provide the requested medical and factual evidence. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Appellant subsequently submitted a May 24, 2021 report from Dr. Kevin Paley, a Board-certified orthopedic surgeon, relating that appellant experienced a sudden onset of pain and swelling in appellant's right knee when stepping off a ladder at work on November 19, 2020 and that his symptoms had progressively worsened. Dr. Paley noted that appellant had no knee problems prior to the date of injury. His examination of the right knee revealed mild effusion, tenderness to palpation on the medial joint line, normal painful active range of motion, and a positive medial McMurray's test. Dr. Paley indicated that x-rays of the right knee demonstrated no abnormalities. He diagnosed complex tear of the right medial meniscus and recommended a magnetic resonance imaging (MRI) scan.

On October 8, 2021 appellant requested reconsideration.

By decision dated October 20, 2021, OWCP modified the April 9, 2021 decision, finding that the evidence of record established the factual and medical components of fact of injury. The claim remained denied, however, as the evidence of record was insufficient to establish causal

³ The Board notes that the development questionnaire provided by OWCP did not contain any questions.

relationship between appellant's diagnosed conditions and the accepted November 19, 2020 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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,⁵ 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.⁶ 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.⁷

To determine whether an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. 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.⁸ The second component is whether the employment incident caused a personal injury.⁹

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.¹⁰ 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.¹¹

⁴ *Supra* note 1.

⁵ *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *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).

¹¹ *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).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted November 19, 2020 employment incident.

In a May 24, 2021 medical report, Dr. Paley related that appellant developed sudden pain and swelling in his right knee after stepping off a ladder at work on November 19, 2020. He diagnosed a complex tear of the right medial meniscus. Although Dr. Paley suggested a work-related cause for appellant's right knee condition in his report, he did not provide a rationalized medical opinion relating the specific diagnosed condition to the November 19, 2020 employment incident. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹² Therefore, this report is insufficient to establish appellant's traumatic injury claim.

As appellant has not submitted rationalized medical evidence establishing that his medical condition is causally related to the accepted November 19, 2020 employment incident, the Board finds that he has not met his burden of proof to establish his claim.

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 a medical condition causally related to the accepted November 19, 2020 employment incident.

¹² *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

ORDER

IT IS HEREBY ORDERED THAT the October 20, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 8, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board