

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

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<b>T.K., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 23-0649</b>
	)	<b>Issued: October 18, 2023</b>
<b>U.S. POSTAL SERVICE, BROOKLYN</b>	)	
<b>PROCESSING &amp; DISTRIBUTION CENTER,</b>	)	
<b>Brooklyn, NY, Employer</b>	)	
_____	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On April 1, 2023 appellant filed a timely appeal from a March 20, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the March 20, 2023 decision, appellant submitted additional evidence to OWCP. 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 met her burden of proof to establish a medical condition causally related to the accepted January 15, 2023 employment incident.

## FACTUAL HISTORY

On January 19, 2023 appellant, then a 44-year-old clerk/special delivery messenger, filed a traumatic injury claim (Form CA-1) alleging that on January 15, 2023 she severely injured her right leg and knee when she tripped over a vapor product in the cafeteria while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that she was injured while in the performance of duty, but challenged the factual basis of the claim because she was in physical therapy for an underlying knee condition. Appellant stopped work on January 15, 2023.

In a February 6, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary, and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP subsequently received a February 3, 2023 report from Dr. Sekhar C. Upadhyayula, a Board-certified anesthesiologist, relating that appellant had low back and right knee pain. Dr. Upadhyayula diagnosed pain in the right knee, primary osteoarthritis of the right knee, lumbar and lumbosacral region dorsopathies, and lumbar and lumbosacral myalgia. He advised that appellant had already begun physical therapy and was scheduled for a magnetic resonance imaging (MRI) scan of the lumbar spine and an x-ray of the right knee on February 8, 2023.

By decision dated March 20, 2023, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that her medical condition was causally related to the accepted January 15, 2023 employment incident. It concluded, therefore, that she had not met the requirements to establish an injury as defined under FECA.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *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).

to the employment injury.<sup>5</sup> 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.<sup>6</sup>

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 at the time and place, and in the manner alleged.<sup>7</sup> The second component is whether the employment incident caused a personal injury.<sup>8</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>9</sup> 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 incident identified by the employee.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted January 15, 2023 employment incident.

In a February 3, 2023 report, Dr. Upadhyayula, diagnosed pain in the right knee, primary osteoarthritis of the right knee, lumbar and lumbosacral region dorsopathies, and lumbar and lumbosacral myalgia. He advised that appellant had already started physical therapy and was scheduled for diagnostic imaging. However, Dr. Upadhyayula did not offer an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup> For this reason, this report is insufficient to establish the claim.

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<sup>5</sup> *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *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).

<sup>7</sup> *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>8</sup> *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *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).

<sup>10</sup> *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).

<sup>11</sup> *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted January 15, 2023 employment incident, the Board finds that appellant has not met her burden of proof.

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 her burden of proof to establish a medical condition causally related to the accepted January 15, 2023 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 20, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 18, 2023  
Washington, DC

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

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

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