

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

F.C., Appellant)	
)	
and)	Docket No. 23-0132
)	Issued: May 25, 2023
U.S. POSTAL SERVICE, POST OFFICE,)	
Union Point, GA, Employer)	
)	

Appearances: *Case Submitted on the Record*
*Alan J. Shapiro, Esq., for the appellant*¹
Office of Solicitor, for the Director

DECISION AND ORDER

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

JURISDICTION

On November 8, 2022 appellant, through counsel, filed a timely appeal from a September 23, 2022 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 her burden of proof to establish a left knee condition causally related to the accepted November 15, 2020 employment incident.

FACTUAL HISTORY

On May 2, 2021 appellant, then a 58-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on November 15, 2020 she injured her left knee while in the performance of duty. She related that she slid down an incline of wet grass and when her slide stopped both of her legs were under her mail truck's door. Appellant reported that she broke the skin on both legs. A coworker asked her what she had done to the back of her shirt, and she explained what had happened. Appellant stopped work on February 26, 2021.

In a development letter dated May 11, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical information needed and afforded her 30 days to submit the necessary evidence.

Thereafter, OWCP received a February 4, 2021 unsigned report from Dr. John R. Manfredi, a Board-certified orthopedic surgeon. Dr. Manfredi indicated that appellant had sustained a left knee injury at work. He discussed her complaints of swelling and the "locking up" of her knee over the past three weeks. Dr. Manfredi found a positive McMurray's test and tenderness at the medial joint line on examination. He diagnosed internal derangement of the left knee with a likely tear of the medial meniscus.

A magnetic resonance imaging (MRI) scan of the left knee, obtained on February 11, 2021 demonstrated osteoarthritis asymmetric to the medial femoral condyle with focal chondromalacia of under one-centimeter, moderate joint effusions, synovitis, and a likely acute on chronic medial and lateral collateral ligament sprain.

In an unsigned report dated February 18, 2021, Dr. Manfredi recounted a history of appellant experiencing left knee pain for the past several of months. He reviewed the results of the February 2021 MRI scan and diagnosed left knee degenerative arthritis in the medial femoral condyle with bony edema. In a February 25, 2021 unsigned report, Dr. Manfredi noted that appellant had difficulty performing her work duties. He diagnosed left knee internal derangement with chondromalacia at the medial femoral condyle and a meniscal cyst.

In an unsigned report dated February 26, 2021, Dr. Stephen B. Johnson, an osteopath, noted that appellant worked as a mail carrier. He reviewed the results of the MRI scan and x-rays. Dr. Johnson diagnosed mild left knee osteoarthritis with mechanical symptoms and possible internal derangement. He recommended a left knee arthroscopy. In a work slip of even date, Dr. Johnson found that appellant was unable to work.

In an unsigned report dated March 11, 2021, Dr. Manfredi diagnosed mild left knee osteoarthritis with mechanical symptoms and found that appellant should not work.

In work slips dated March 11 and April 2, 2021, an unidentified health care provider found appellant unable to work.

On April 9, 2021 Dr. Johnson performed a left knee arthroscopy with partial medial and lateral meniscectomies, excision of symptomatic loose bodies, and chondroplasty. The operative report indicated that appellant had a “complex and degenerative tear in the posterior horn of the meniscus” on evaluation of the medial and lateral compartments.

The record contains an unsigned postoperative report from Dr. Johnson dated April 23, 2021. In a work slip of even date, an unidentified health care provider found that appellant should not work.

By decision dated June 22, 2021, OWCP denied appellant’s traumatic injury claim. It found that she had not established a left knee condition causally related to the accepted November 15, 2020 employment incident.

Thereafter, OWCP received a June 11, 2021 work slip from an unidentified health care provider indicating that appellant could return to sedentary employment on June 23, 2021. In an unsigned report of even date, Dr. Johnson recommended continued physical therapy after her partial meniscectomy.

In a postal service form report dated July 26, 2021, Dr. Johnson diagnosed a meniscal tear, chondromalacia, and loose bodies and provided work restrictions. In a duty status report (Form CA-17) of even date, he provided diagnoses.

In a report dated August 31, 2021, Dr. Johnson advised that he was treating appellant for left knee pain “since a work injury that [appellant] sustained back in January [2021].” He noted that she had not experienced left knee pain prior to the injury. Dr. Johnson asserted that an arthroscopy showed a “meniscal tear as well as what appeared to be some symptomatic loose bodies in the knee and chondromalacia.” He discussed appellant’s complaints of continued knee pain and found that she had “degenerative changes that were more than likely preexisting, but not bothering [appellant]. Given her age and activity level, I think it is more likely than not that this is definitely a work-related issue.”

In an unsigned progress report dated September 1, 2021, Dr. Johnson found tenderness over the medial and patellofemoral aspect of the knee and mild-to-moderate joint effusion. In a work status form of even date, he provided work restrictions.

On October 10, 2021 appellant requested reconsideration.

By decision dated December 9, 2021, OWCP denied modification of its June 22, 2021 decision.

In a report dated May 27, 2022, Dr. Johnson recounted appellant’s history of injury as “tripping and falling landing directly onto [the] left knee while twisting” on November 15, 2020. He asserted that the findings on MRI scan of an injury to the medial femoral condyle cartilage, effusion, and sprains of the collateral ligament were directly related to the employment injury. Dr. Johnson related, “The bones crashed into each other causing a significant amount of damage to the thin layer of articular cartilage. Because of this, [appellant] did have some loose bodies present as well as meniscal pathology at the time of arthroscopy.” He opined that the findings on arthroscopy and the employment injury were causally related and diagnosed a complex tear of the

left medial meniscus and an unspecified tear of the left meniscus, initial encounter. Dr. Johnson further found that appellant's complaints of mechanical problems with her knee such as popping and giving way to her work injury were "more likely than not" directly attributable to her work injury and noted that she had not complained of knee pain prior to this time. He advised that two orthopedic surgeons who had examined her agreed that the injury was work related.

On July 7, 2022 appellant, through counsel, requested reconsideration.

By decision dated September 23, 2022, OWCP denied modification of its December 9, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 filed within the applicable time limitation of FECA,⁴ that an injury was sustained while in the performance of duty as alleged; and that any disability or specific 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 on 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.⁷ Generally, 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 employment incident caused a personal injury.⁹

³ *Id.*

⁴ *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁹ *Id.*

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹⁰ The opinion of the physician must be based upon a complete factual and medical background, 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 incident.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left knee condition causally related to the accepted November 15, 2020 employment incident.

In a May 27, 2022 report, Dr. Johnson obtained a history of appellant landing directly onto her left knee after she tripped and fell while twisting. He found that she had sustained effusion, collateral ligament sprains, and an injury to the medial femoral condyle cartilage due to the employment injury. Dr. Johnson opined that appellant had loose bodies and meniscal pathology due to bones crashing into each other and damaging the articular cartilage. He diagnosed a complex tear of the left medial meniscus and an unspecified tear of the left meniscus and asserted that the findings on arthroscopy were causally related to the work injury. Dr. Johnson further found that appellant's complaints of mechanical knee problems were more likely than not due to her work injury. He noted that she had not complained of knee pain prior to her injury. Dr. Johnson, however, recounted a history of appellant falling directly onto her left knee instead of that related on her Form CA-1 of sliding down an incline of wet grass. Appellant related that when she returned to the office a coworker asked what had happened to the back of her clothing. She did not provide a history of falling directly on her left knee. An inconsistent history of injury limits the probative value of a medical opinion.¹² Additionally, Dr. Johnson did not explain physiologically how the movements involved in the employment incident caused or contributed to the diagnosed conditions.¹³ As such, his opinion is of diminished probative value and insufficient to meet appellant's burden of proof.

On August 31, 2021 Dr. Johnson advised that he was treating appellant for a January 2021 work injury. He found that she had degenerative changes that were asymptomatic before her injury. Dr. Johnson noted that an arthroscopy showed a meniscal tear, chondromalacia, and some loose bodies. He opined that appellant's condition was work related. Dr. Johnson indicated that she had not experienced knee pain before the injury. However, his report is of limited probative value as he indicated that he was treating appellant for a January 2021 rather than November 2020 employment injury and as he failed to provide a rationalized opinion on causal relationship.¹⁴ While Dr. Johnson noted that she had not experienced knee pain prior to the injury, an opinion that

¹⁰ *E.G.*, Docket No. 20-1184 (issued March 1, 2021); *T.H.*, *supra* note 7.

¹¹ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

¹² *G.W.*, Docket No. 20-0507 (issued March 4, 2021); *R.H.*, Docket No. 18-0021 (issued March 22, 2018); *see S.L.*, Docket No. 16-0222 (issued August 11, 2016).

¹³ *T.M.*, Docket No. 21-0641 (issued August 25, 2021); *A.W.*, Docket No. 19-0327 (issued July 19, 2019).

¹⁴ *See S.B.*, Docket No. 21-0646 (issued July 22, 2022).

a condition is causally related to an employment incident simply because the employee was asymptomatic before the injury, is insufficient, without adequate rationale, to establish causal relationship.¹⁵ Medical opinion evidence must offer a rationalized explanation of how the specific employment incident or work factors, physiologically caused injury.¹⁶ Consequently, Dr. Johnson's report is insufficient to establish appellant's claim.

In a work slip dated February 26, 2021, Dr. Johnson provided work restrictions. In form reports dated July 26, 2021, he diagnosed a meniscal tear, chondromalacia, and loose bodies and provided work restrictions. Dr. Johnson, however, did not address causation in these reports. The Board has held that 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.¹⁷ Therefore, these reports are insufficient to meet appellant's burden of proof.

Appellant further submitted a February 11, 2021 MRI scan. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion regarding whether the accepted employment factors caused a diagnosed condition.¹⁸ Consequently, this evidence is insufficient to establish appellant's claim.

The record contains numerous unsigned reports and reports from unidentified health care providers. The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a physician.¹⁹ Therefore, these reports are of no probative value and is insufficient to establish appellant's 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 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 left knee condition causally related to the accepted November 15, 2020 employment incident.

¹⁵ See *D.V.*, Docket No. 21-1259 (issued March 15, 2022); *S.D.*, Docket No. 20-1255 (issued February 3, 2021); *F.H.*, Docket No. 18-1238 (issued January 18, 2019).

¹⁶ See *G.R.*, Docket No. 21-1196 (issued March 16, 2022); *K.J.*, Docket No. 21-0020 (issued October 22, 2021); *L.R.*, Docket No. 16-0736 (issued September 2, 2016); *J.R.*, Docket No. 12-1099 (issued November 7, 2012); *Douglas M. McQuaid*, 52 ECAB 382 (2001).

¹⁷ *B.W.*, Docket No. 20-1032 (issued November 17, 2020); *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).

¹⁸ *A.W.*, Docket No. 22-1196 (issued November 23, 2022); *S.W.*, Docket No. 21-1105 (issued December 17, 2021); *W.L.*, Docket No. 20-1589 (issued August 26, 2021).

¹⁹ *R.N.*, Docket No. 21-1178 (issued January 18, 2022); *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

ORDER

IT IS HEREBY ORDERED THAT the September 23, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 25, 2023
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