U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of AMELIA V. GUERRA and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Houston, TX

Docket No. 03-756; Submitted on the Record;
Issued May 13, 2003

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an injury in the performance of duty.

On March 14, 2002 appellant, a 52-year-old flat sorter machine operator, filed a claim for traumatic injury, Form CA-1, alleging that on March 4, 2002 she sustained a left knee injury while turning to put mail on a shelf in the performance of duty.

In support of her claim, appellant submitted form reports dated March 15, June 21 and July 2, 2002 from Dr. Steven E. Nolan, her treating Board-certified orthopedic surgeon, who diagnosed a torn medial and lateral meniscus of the left knee and further indicated that appellant underwent arthroscopic surgery on May 6, 2002.

By letter dated October 15, 2002, the Office of Workers' Compensation Programs informed appellant that the evidence of record was insufficient to establish her claim because it did not contain, among other things, a physician's opinion as to the causal relationship between her diagnosed condition and her employment.

In response, appellant submitted a narrative statement explaining the circumstances surrounding the March 4, 2002 incident and a statement from her union steward confirming that she had contacted him for assistance in filing her CA-1 claim. She did not submit any additional medical evidence.

By decision dated November 18, 2002, the Office denied appellant's claim on the grounds that the medical evidence submitted was insufficient to establish fact of injury.

The Board finds that appellant has not established that she sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim,[2] including the fact that the individual is an "employee of the United States" within the meaning of the Act,[3] that the claim was timely filed within the applicable time limitation period of the Act,[4] that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[5] These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. 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.[7] Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.[8] An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.[9]

To accept fact of injury in a traumatic injury case, the Office, in addition to finding that the employment incident occurred in the performance of duty as alleged, must also find that the employment incident resulted in an "injury." The term "injury" as defined by the Act, as commonly used, refers to some physical or mental condition caused either by trauma or by continued or repeated exposure to or contact with, certain factors, elements or conditions.[10] The question of whether an employment incident caused a personal injury generally can be established only by medical evidence.[11]

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[1] 5 U.S.C. §§ 8101-8193.

[2] *See Daniel R. Hickman*, 34 ECAB 1220 (1983); *see also* 20 C.F.R. § 10.115.

[3] *See James A. Lynch*, 32 ECAB 216 (1980); *see also* 5 U.S.C. § 8101(1).

[4] 5 U.S.C. § 8122.

[5] *See Melinda C. Epperly*, 45 ECAB 196 (1993).

[6] *See Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[7] *See John J. Carlone*, 41 ECAB 354 (1989).

[8] *Id.* For a definition of the term "injury," *see* 20 C.F.R. § 10.5(ee).

[9] As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity; *see Frazier V. Nichol*, 37 ECAB 528 (1986).

[10] *See Elaine Pendleton*, 40 ECAB 1143 (1989).

[11] *See John J. Carlone*, *supra* note 7.

In the present case, the record contains CA-17 form reports dated March 15 and June 21, 2002 from Dr. Nolan in which he listed his diagnosis as torn medial/lateral meniscus, left knee and indicated by checking a box marked "yes" that the diagnosed condition corresponded to the history of injury provided by appellant. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish a claim.[12] The only other medical evidence of record consists of a form report dated July 2, 2002 in which Dr. Nolan diagnosed a torn medial/lateral meniscus, left knee, indicated that arthroscopic surgery was performed on May 6, 2002 and concluded that appellant could return to full duty on July 8, 2002. This treatment note is of limited probative value, however, as it does not discuss the cause of appellant's condition.[13]

By letter dated October 15, 2002, the Office informed appellant of the type of evidence needed to establish her claim. As she failed to submit any medical evidence that contains a rationalized medical opinion explaining how the March 4, 2002 incident caused or contributed to her diagnosed torn left medial/lateral meniscus, the Office properly denied her claim.[14]

The decision of the Office of Workers' Compensation Programs dated November 18, 2002 is hereby affirmed.[15]

Dated, Washington, DC
May 13, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

[12] *Beverly J. Duffey*, 48 ECAB 569 (1997); *Lee R. Haywood*, 48 ECAB 145 (1996).

[13] *See Ruthie M. Evans*, 41 ECAB 416 (1990); *Diane Williams*, 47 ECAB 613 (1996).

[14] *Carolyn F. Allen*, 47 ECAB 240 (1995) (medical reports not containing rationale on causal relationship are entitled to little probative value).

[15] On appeal, appellant submitted new medical evidence that was not before the Office at the time it rendered its decisions; therefore, the Board has no jurisdiction to review it on this appeal. *See* 20 C.F.R. § 501.2(c).