

In an unsigned report dated June 2, 2003, Dr. Stephen R. Birch, a Board-certified orthopedic surgeon, related, “[Appellant] was involved in an altercation when he struck the anterior aspect of his left knee. He developed increasing pain in the knee and difficulty running or walking fast secondary to knee pain.” Dr. Birch noted that appellant had sustained an apparent “partial patellar tendon tear” of the same knee one year prior. He found appellant temporarily totally disabled and requested authorization for a magnetic resonance imaging (MRI) scan.¹

In an unsigned report dated July 2, 2003, Dr. Birch diagnosed a tear, avulsion or tendinitis of the inferior pole of the left patella. He found that appellant could resume work without restrictions.

In an unsigned report dated August 12, 2003, Dr. Birch related that appellant “was involved in an altercation with an inmate, in which he struck the anterior aspect of his left knee. He was temporarily totally disabled until he was seen on July 2, 2003 and then he was made temporarily partially disabled.” Dr. Birch listed the dates of injury on his report as April 28, 2002 and May 2003. He indicated that an MRI scan revealed a tear or tendinitis of the inferior pole of the left patella. Dr. Birch also related that appellant had an injury to his left knee with similar findings one year prior when he ran up stairs in response to an alarm. He concluded that appellant currently had no work restrictions.

By letter dated May 14, 2004, the Office noted that it had originally accepted appellant’s claim as “a simple, uncontroverted case which resulted in minimal or no time los[t] from work.” The Office informed appellant that it would now adjudicate his claim and requested additional factual and medical information, including a comprehensive medical report addressing causal relationship. The Office further noted that the medical evidence currently of record attributed appellant’s condition to an “altercation with an inmate in May 2003[,]” rather than the history listed on the claim form of twisting his knee while moving mattresses. The Office requested that appellant “explain this apparent inconsistency fully....”

In a decision dated July 24, 2004, the Office denied appellant’s claim on the grounds that “the medical evidence does not demonstrate that the claimed medical condition is related to the established work-related event(s)....” The Office noted that the medical evidence did not refer to the May 17, 2003 incident of appellant slipping on the stairs moving mattresses, but instead described an April 28, 2002 incident when he injured his knee running up stairs at work in response to an alarm.² The Office also noted that, while Dr. Birch mentioned an injury in May 2003 in his August 12, 2003 report, he described an altercation with an inmate rather than appellant slipping on stairs moving mattresses.

¹ An MRI scan of the left knee, performed on July 24, 2003 revealed patellar tendinitis or a partial tear.

² The Office noted that appellant filed a separate claim for the April 28, 2002 incident which was assigned file number A13-2052304.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing 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 the Act; that the claim was filed within the applicable time limitation; that an injury was sustained while 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.⁴ 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.⁵

To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.⁶ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.⁷ An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.⁸

In order to satisfy his burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the employment incident caused the alleged injury.⁹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the employee's alleged injury and the employment incident.¹⁰ The physician's opinion must be based on a complete factual and medical history of the employee, must be of reasonable certainty and must rationally explain the relationship between the diagnosed injury and the employment incident as alleged by the employee.¹¹

³ 5 U.S.C. §§ 8101-8193.

⁴ *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 3.

⁶ *Delphyne L. Glover*, 51 ECAB 146 (1999).

⁷ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁸ *Gary J. Watling*, *supra* note 7.

⁹ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

¹⁰ *Gary J. Watling*, *supra* note 7.

¹¹ See *John W. Montoya*, 54 ECAB ____ (Docket No. 02-2249, issued January 3, 2003); *Shirley R. Haywood*, 48 ECAB 404 (1997).

ANALYSIS

There is no dispute that the May 17, 2003 incident occurred at the time, place and in the manner alleged. The issue is thus whether appellant sustained a compensable injury as a result of the incident. The question of whether an employment incident caused an injury is generally established by medical evidence.¹² The only medical evidence submitted by appellant in this case consisted of unsigned medical reports from Dr. Birch dated June 2, July 2 and August 12, 2003. The Board has held that unsigned medical reports are of no probative value as the identity of the preparer cannot be established as that of a physician.¹³

The Office advised appellant of the type of evidence required to establish his claim; however, he failed to submit such evidence. As he did not provide any rationalized medical evidence describing or explaining the medical process through which the May 17, 2003 incident caused an injury, the Board finds that he has not satisfied his burden of proof. The Office, therefore, properly denied appellant's claim for compensation.¹⁴

CONCLUSION

The Board finds that appellant has not established that he sustained an injury in the performance of duty on May 17, 2003.

¹² *John W. Montoya*, *supra* note 11.

¹³ *See Merton J. Sills*, 39 ECAB 572 (1988).

¹⁴ Subsequent to the Office's June 24, 2004 decision, appellant submitted additional evidence. The Board may not review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting new evidence to the Office and requesting reconsideration pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 24, 2004 is affirmed.

Issued: November 17, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member