United States Department of Labor
Employees' Compensation Appeals Board

T.G., Appellant	)	
and	)	**Docket No. 06-1664**
	)	**Issued: November 7, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Versailles, KY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 17, 2006 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated June 9, 2006 finding that he had not established a medical condition due to an April 4, 2005 employment incident. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty on April 4, 2005.

FACTUAL HISTORY

On April 24, 2006 appellant, then a 55-year-old distribution clerk, filed an occupational disease claim alleging that he reinjured his left knee in the performance of duty. He stated he first became aware of his condition on April 4, 2006 and first related it to his employment on April 23, 2006. Appellant stated that he previously injured his left knee in August 2005, but this injury had healed. He stated that, while at work on April 4, 2006 he was using a manual lift to

move a large box and in the process twisted his left knee. Appellant thought that this injury was minor and did not report it. He noticed swelling a few days later in his left knee and skipped work. When he returned to duty his knee condition worsened and he experienced severe pain while walking or standing.

By letter dated May 1, 2006, the Office informed appellant that as his work injury occurred on one work shift his claim would be adjudicated as a traumatic injury. It requested additional factual and medical evidence and allowed appellant 30 days to respond.

Appellant submitted emergency room records dated April 23, 2006 and a form report dated April 24, 2006 from Dr. Dan Sotingeanu, a physician Board-certified in emergency medicine. He noted left knee effusion and possible ligament injury. Dr. Sotingeanu indicated with a checkmark that the history appellant provided corresponded to moving a manual lift and twisting his left knee. He stated that over the past two weeks appellant had experienced increased pain, instability and swelling in his left knee.

Appellant submitted a narrative statement asserting that he twisted his left knee while using a manual forklift to move a heavy box on April 4, 2006. He stated that, although his knee was painful for a few minutes, he did not think about his knee while continuing to work. Over the next three days, appellant's knee pain increased due to standing in the performance of duty. He used leave for a week and treated his knee with over-the-counter medications and rest. When appellant returned to work standing for eight hours a day, his knee pain increased and he then sought medical treatment. He stated that his previous knee injury in August 2005 was not employment-related and occurred while he was riding his motorcycle. Appellant noted that he had sustained ligament tears and arthritis due to the August 2005 incident.

Dr. Andrew W. Ryan, a Board-certified orthopedic surgeon, completed a note on May 2, 2006. He noted appellant's history of injury as twisting his left knee while pulling a forklift four weeks prior. Dr. Ryan found left knee effusion with significant pain on weight bearing but low grade flexion contracture. He injected appellant's knee with lidocaine and recommended light duty. On May 16, 2006 Dr. Ryan found low grade effusion in the left knee, significant medial joint line tenderness. He again injected appellant's left knee and recommended light duty.

By decision dated June 9, 2006, the Office denied appellant's claim finding that his left knee condition was not related to the accepted work incident.[1]

LEGAL PRECEDENT

A traumatic injury is defined as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of

[1] Following the Office's June 9, 2006 decision, appellant submitted additional new evidence. As it did not consider this evidence in reaching a final decision, the Board may not review the evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c)

occurrence and member or function of the body affected.[2] An occupational disease or illness, on the other hand, means a condition produced by the work environment over a period longer than a single workday or shift.[3]

An employee who claims benefits under the Federal Employees' Compensation Act[4] has the burden of establishing that he or she sustained an injury while in the performance of duty.[5] In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[6]

The medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[7] The physician must provide an opinion on whether the employment incident described caused or contributed to the claimant's diagnosed medical condition and support that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical and rational.[8] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 established incident or factor of employment.[9]

ANALYSIS

In this case, appellant filed a claim alleging that he had developed an occupational disease resulting in a left knee injury. The Office determined that as he identified an incident on April 4, 2006 twisting his left knee while using a manual forklift, his claim should be developed as a traumatic injury. As required by the definition of a traumatic injury listed above, as the April 4, 2006 knee injury was caused by a specific event within a single workday or shift. The condition was caused by external force, including stress or strain and was identifiable as to time and place of occurrence and member or function of the body affected.[10] Therefore, with regard

[2] 20 C.F.R. § 10.5(ee).

[3] 20 C.F.R. § 10.5(q).

[4] 5 U.S.C. §§ 8101-8193.

[5] *Deborah L. Beatty*, 54 ECAB 340 (2003).

[6] *Id.*

[7] *John W. Montoya*, 54 ECAB 306, 308 (2003).

[8] *Id.*

[9] *Louis T. Blair*, 54 ECAB 348, 350 (2003).

[10] 20 C.F.R. § 10.5(ee).

to the specific injury of April 4, 2006, the Office properly developed appellant's claim as a traumatic injury.[11]

Appellant submitted emergency room treatment notes signed by Dr. Sotingeanu, a physician Board-certified in emergency medicine, noting left knee effusion and possible ligament injury. Dr. Sotingeanu indicated with a checkmark that the history appellant provided corresponded to moving a manual lift and twisting his left knee. He stated that over the past two weeks appellant had experienced increased pain, instability and swelling in his left knee. Dr. Sotingeanu did not provide a medical opinion addressing the causal relationship between his left knee condition and the employment incident of twisting his knee on April 4, 2006. Although the form report completed by him did indicate that appellant had provided a consistent history of injury, Dr. Sotingeanu did not discuss whether it was his opinion with a reasonable degree of medical certainty that this incident caused or contributed to appellant's left knee condition. The record reflects that appellant had a preexisting left knee condition due to a nonemployment-related motorcycle injury. Dr. Sotingeanu did not describe in detail why he believed the employment incident of twisting would cause or contribute to his current left knee condition. Without medical opinion evidence addressing the causal relationship between appellant's condition and his employment, he has not met his burden of proof to establish an injury in the performance of duty.

Dr. Ryan an orthopedic surgeon, completed a note on May 2, 2006 listing appellant's history of injury as twisting his left knee pulling a forklift. He found left knee effusion with significant pain on weight bearing but low grade flexion contracture. Dr. Ryan did not discuss the causal relationship between appellant's April 4, 2006 employment incident and his left knee condition. As neither physician offered an opinion regarding whether appellant's current left knee condition was caused or aggravated by his accepted employment incident, he has failed to meet his burden of proof and the Office properly denied his claim for a traumatic injury.

CONCLUSION

The Board finds that there is no medical evidence in the record establishing a causal relationship between appellant's current left knee condition and his accepted employment incident of April 4, 2006. Therefore, appellant has failed to meet his burden of proof and the Office properly denied his claim.

[11] The Board notes that appellant also implicated additional employment duties as causing or contributing to his knee condition. These employment duties include standing for eight hours a day for the several days following the April 4, 2006 employment incident. As the Office has not developed or addressed the occupational disease aspect of appellant's claim, which is defined as a condition produced by the work environment over a period longer than a single workday or shift, (20 C.F.R. § 10.5(q)) the Board will not address this aspect of his claim for the first time on appeal. 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the June 9, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 7, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board