United States Department of Labor
Employees' Compensation Appeals Board

E.D., Appellant	)	
	)	**Docket No. 08-1007**
and	)	**Issued: August 14, 2008**
	)	
U.S. POSTAL SERVICE, Mobile, AL, Employer	)	
	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 19, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated December 31, 2007 which denied his traumatic injury claim.[1] Pursuant to 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 sustained a traumatic injury in the performance of duty.

FACTUAL HISTORY

On November 13, 2007 appellant, then a 44-year-old electronic technician, filed a traumatic injury claim alleging that on November 11, 2007 a fan became jammed between the door and his left leg causing his knee to twist.

[1] The record includes medical evidence received after the Office issued the December 31, 2007 decision. The Board cannot consider new evidence for the first time on appeal. 20 C.F.R. § 501.2(c) (2004).

In a November 26, 2007 letter, the Office requested additional information from appellant including a statement from anyone who witnessed appellant's injury and a detailed narrative medical report explaining how the reported work incident caused appellant's injury.

In a November 14, 2007 report, appellant's supervisor included a description of the accident stating that appellant was returning a portable fan to the maintenance office when the base of the fan got jammed between the office door and his left knee causing his left knee to twist.

In a December 7, 2007 letter, Juanita Westry stated that she was the acting MDO when appellant reported that he had injured himself on the job.

In a December 5, 2007 note, Dr. Ronald W. Perdue, Board-certified in family medicine, diagnosed a left knee strain, checked "yes" next to the job-related line and stated that appellant could return to full duty with no restrictions.

In a December 20, 2007 statement, appellant explained that he did not go to the doctor the night of the accident because the pain lessened and went away until a couple of weeks later when he had stiffness in the knee and surrounding area.

On December 13, 2007 the Office denied appellant's claim finding that the evidence was insufficient to establish that the events occurred as alleged and that there was no medical evidence of a diagnosis connected to the claimed event.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 timely filed within the applicable time limitation period of the Act, 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.[3] 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.[4]

In order to determine whether an employee sustained a traumatic 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 that 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.[5] The second

[2] 5 U.S.C. §§ 8101-8193.

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

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] *Elaine Pendleton*, *supra* note 3.

component is whether the employment incident caused a personal injury.[6] Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[7]

ANALYSIS

Appellant alleged that he sustained a left knee condition when he twisted his knee as a result of it being jammed between an office door and a fan. The Office denied that the event occurred as alleged. An employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.[8] Appellant's statement is not refuted. His statements are consistent. Additionally, appellant's supervisor provided the same description of the incident. As such, the Board finds that the incident occurred as alleged. The question for determination is whether this incident caused an injury.

In order to establish that the employment incident caused an injury appellant must establish through medical evidence that he has a diagnosed condition causally related to the incident. Appellant submitted a note from Dr. Perdue who diagnosed left knee strain and checked "yes" next to the job-related line. The Board has held that prescription notes or form reports that provide a check mark in support of causal relation are of diminished probative value.[9] Dr. Perdue's note is the extent of the medical evidence. While it indicates a diagnosis of left knee strain, it does not establish that the left knee strain was causally related to the November 11, 2007 incident. To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.[10] No physician opinions were submitted. The Board finds that appellant has not met his burden to establish that his left knee strain was causally related to the accepted employment incident.

CONCLUSION

The Board finds that appellant has not established that he sustained a traumatic injury in the performance of duty.

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

[7] *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id*.

[8] *Gregory J. Reser*, 57 ECAB 277 (2005); *Virgil F. Clark*, 40 ECAB 575 (1989);

[9] *See Cecelia M. Corley*, 56 ECAB 662 (2005); *Donald W. Long*, 41 ECAB 142 (1989).

[10] *D.D.*, 57 ECAB 734 (2006); *Calvin E. King*, 51 ECAB 394 (2000).

ORDER

IT IS HEREBY ORDERED THAT the December 31, 2007 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: August 14, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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