United States Department of Labor
Employees' Compensation Appeals Board

T.T., Appellant	)	
and	)	**Docket No. 17-1546**
	)	**Issued: November 2, 2017**
DEPARTMENT OF VETERANS AFFAIRS, JESSE BROWN VETERANS AFFAIRS MEDICAL CENTER, Chicago, IL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 7, 2017 appellant, through counsel, filed a timely appeal from a March 10, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (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 met her burden of proof to establish an injury due to an April 11, 2016 employment incident.

FACTUAL HISTORY

On April 27, 2016 appellant, then a 50-year-old Equal Employment Opportunity (EEO) assistant, filed a traumatic injury claim (Form CA-1) alleging that on April 11, 2016 she sustained an injury at work when she fell against a glass-fronted cabinet in her office, striking her right middle/upper back and right wrist. Appellant stopped work on April 12, 2016.[3]

Appellant submitted an April 12, 2016 statement in which she described the circumstances of her April 27, 2016 fall. She indicated that a coworker, E.J., came into her office on April 11, 2016 and that, as E.J. was leaving, she attempted to get up from her wheelchair with her crutches in order to go to the bathroom located in her office. As appellant was standing up, she lost her balance and fell into E.J.[4] She indicated that she then twisted around and fell backwards against a glass-fronted cabinet, striking her right middle/upper side of her back and her right wrist on the cabinet. Appellant complained of headaches and pain in her neck, right arm, right wrist, ankles, and feet.[5]

In an April 11, 2016 report, Dr. Kartik Kamaria, a medical resident specializing in internal medicine and osteopathy, provided an assessment of "mechanical fall" and left posterior shoulder and left wrist pain. In another April 11, 2016 report, Angelica Baltazar, an attending nurse, noted that appellant related that she was at work earlier that day, when she got up to use the restroom and fell down. She denied any head trauma.

In an April 11, 2016 report, Dr. George Hughes-Strange, a medical resident specializing in emergency medicine, indicated that appellant presented on that date complaining of right wrist pain and left back pain that started after a fall. Appellant reported that she was using crutches and wearing a boot on her left leg due to a March 28, 2016 Achilles tendon injury and that, while getting up, she caught her boot on the crutch, causing her to fall to the ground. Dr. Hughes-Strange noted that appellant was a patient "with traumatic fall due to mechanical issue" who currently had a brace on her left foot and had difficulty using crutches. He indicated that an x-ray of appellant's right wrist was negative for fracture and noted, "Pain in back consistent with

[3] On the same form, appellant's immediate supervisor indicated that a letter challenging the claim would be submitted.

[4] Appellant indicated that her right ankle was weak and unstable because her right leg had been carrying all her weight due to the fact she had a left Achilles tendon injury, for which she was wearing an orthopedic boot on her left foot. She thought that one of her crutches might have hit her wheelchair as she was getting up. Under a separate claim (OWCP File No. xxxxxx942), appellant had alleged a work-related left Achilles tendon rupture. Appellant's claimed left Achilles tendon is not the subject of the present appeal.

[5] Appellant also submitted e-mails from individuals who had not witnessed her April 11, 2016 fall but attended to her shortly after the fall. The individuals indicated that appellant related that she fell and hit her right wrist and back.

lower back strain." In another April 11, 2016 report, Dr. Hughes-Strange provided a diagnosis of right wrist bruise and lower left back strain.

In an April 15, 2016 form report, Dr. Fatima Ahmed, an attending Board-certified internist and osteopath, indicated that appellant was examined and should remain home from April 12 to 22, 2016 due to a left ruptured Achilles tendon and right leg and hand pain from a fall on April 11, 2016.

In a May 5, 2016 letter, a human resources specialist indicated that the employing establishment was challenging appellant's claim for an April 11, 2016 work injury. She indicated that appellant had been scheduled for surgery in mid-April 2016 due to a left Achilles tendon injury for which she had filed a yet-unresolved workers' compensation claim. The specialist indicated that the history of injury that appellant reported to her medical providers was inconsistent with that contained in her April 12, 2016 statement.

In a May 17, 2016 letter, OWCP requested that appellant submit additional evidence in support of her claim, including a physician's opinion supported by a medical explanation as to how the reported April 11, 2016 work incident caused or aggravated a medical condition. It provided her 30 days to submit such evidence but she did not respond within the allotted period.

In a June 21, 2016 decision, OWCP denied appellant's claim for an April 11, 2016 work injury. It noted her fall was considered to be an explained idiopathic injury, *i.e.*, an injury caused by a personal nonoccupational pathology without intervention or contribution by any hazard or special condition of employment, and therefore the injury was not considered compensable.[6]

Appellant, through counsel, requested a telephone hearing with a representative of OWCP's Branch of Hearings and Review.

During the hearing held on January 31, 2017, appellant reported that August 16, 2016 was the first day she was on the clock at the employing establishment following her April 22, 2016 left Achilles tendon surgery. She provided further details of her April 11, 2016 fall at work. Appellant indicated that she arose from her wheelchair while wearing an orthopedic boot at the same time E.J. was arising from a seat. She advised that in "some kind of way" things got entangled and she fell forward onto E.J. and then in "some kind of way" she kicked E.J. with her orthopedic boot, twisted around, and fell backwards onto the glass-fronted cabinet. Appellant indicated that she struck the upper right part of her back and her wrist. She advised that she resigned from the employing establishment on August 17, 2016 due to chronic back pain.

In a March 10, 2017 decision, an OWCP hearing representative affirmed OWCP's June 21, 2016 decision, as modified to reflect a change in the basis of the denial. He accepted that an employment incident occurred on April 11, 2016 in the form of appellant falling after

[6] OWCP indicated that appellant fell while wearing a boot for a left Achilles tendon injury and had not identified an occupational cause for the fall.

rising from a wheelchair while at work.[7] The hearing representative further found, however, that appellant had failed to submit sufficient medical evidence to establish causal relationship between a diagnosed condition and the accepted April 11, 2016 employment incident. He indicated that appellant had not submitted a medical report, based on a complete and accurate factual and medical history, which contained a rationalized medical opinion relating her claimed injury to the accepted April 11, 2016 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA[8] 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 timely filed within the applicable time limitation period of FECA, 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.[9] These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[10]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. 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.[11] Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[12]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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

[7] The hearing representative indicated that a fall which occurred after rising from a seated position at work and during the course of regular scheduled hours was sufficiently incidental to appellant's job to be within the performance of her work duties.

[8] *Supra* note 2.

[9] *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[10] *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. §§ 10.5(q), (ee); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

[11] *Julie B. Hawkins*, 38 ECAB 393 (1987).

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

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[13]

ANALYSIS

Appellant filed a traumatic injury claim alleging an injury due to a fall at work on April 11, 2016. In its June 21, 2016 decision, OWCP denied appellant's claim for an April 11, 2016 work injury because it found her fall to have been idiopathic in nature.[14] However, in its March 10, 2017 decision, it modified its June 21, 2016 decision to reflect that appellant had established the occurrence of an employment incident on April 11, 2016 in the form of her falling after rising from a wheelchair. OWCP found, however, that appellant had failed to submit sufficient medical evidence to establish causal relationship between a diagnosed condition and the accepted April 11, 2016 employment incident.

The Board finds that appellant has failed to meet her burden of proof to establish an injury due to an April 11, 2016 employment incident.

In an April 11, 2016 report, Dr. Kamaria, an attending physician, provided an assessment of "mechanical fall" and left posterior shoulder and left wrist pain. This report is of limited probative value regarding appellant's claimed April 11, 2016 employment injury because Dr. Kamaria did not provide an opinion that she sustained an injury due to her April 11, 2016 fall. The Board has held that medical evidence which does not offer a clear opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[15]

In an April 11, 2016 report, Dr. Hughes-Strange, an attending physician, noted that appellant presented on that date complaining of right wrist pain and left back pain that started after a fall. Appellant reported that she was using crutches and wearing a boot on her left leg due to a March 28, 2016 Achilles tendon injury and that, while getting up, she caught her boot on the crutch, causing her to fall to the ground. Dr. Hughes-Strange indicated that appellant was a patient "with traumatic fall due to mechanical issue" and noted, "Pain in back consistent with lower back strain." In another April 11, 2016 report, he provided a diagnosis of right wrist bruise and lower left back strain. Although Dr. Hughes-Strange described appellant's reported fall and provided a diagnosis relating to her right wrist and lower back, his reports are of limited probative value because he did not provide a clear opinion relating these conditions to the April 11, 2016 fall.[16] He did not provide a rationalized medical opinion which included a

[13] *See I.J.*, 59 ECAB 408 (2008); *Donna Faye Cardwell*, 41 ECAB 730 (1990).

[14] It is a well-settled principle of workers' compensation law, and the Board has so held, that an injury resulting from an idiopathic fall -- where a personal, nonoccupational pathology causes an employee to collapse and to suffer injury upon striking the immediate supporting surface and there is no intervention or contribution by any hazard or special condition of employment -- is not within the coverage of FECA. Such an injury does not arise out of a risk connected with the employment and, therefore, it is not compensable. *See Robert J. Choate*, 39 ECAB 103, 106 (1987).

[15] *See Charles H. Tomaszewski*, 39 ECAB 461 (1988).

[16] *See id.*

detailed explanation of how appellant's April 11, 2016 fall could have caused a diagnosed medical condition.[17] Further, appellant had not complained of a lower back condition; rather she had alleged right upper/middle back pain.

In an April 15, 2016 form report, Dr. Ahmed, an attending physician, indicated that appellant was examined and should remain home from April 12 to 22, 2016 due to a left ruptured Achilles tendon and right leg and hand pain from a fall on April 11, 2016. Dr. Ahmed's report is of limited probative value regarding appellant's claimed April 11, 2016 work injury because he did not provide adequate medical rationale in support of his opinion on causal relationship. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.[18] Further, appellant had never complained of a right leg injury. Dr. Ahmed did not describe the nature of the April 11, 2016 employment incident or explain how it could have caused or aggravated the observed right leg and hand conditions, nor did he explain how the fall contributed to the need to be off work from April 12 to 22, 2016. He failed to provide objective findings on physical examination or diagnostic testing or explain how such findings showed that the April 11, 2016 fall contributed to appellant's right leg/hand condition or her disability.[19]

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(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish an injury due to an April 11, 2016 employment incident.

[17] *Y.D.*, Docket No. 16-1896 (issued February 10, 2017); *D.R.*, Docket No. 16-0528 (issued August 24, 2016) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition). The Board notes that the description of the April 11, 2016 fall that appellant provided to Dr. Hughes-Strange did not include the fact that she hit a coworker and a cabinet before she fell to the floor. *See supra* note 12 regarding the limited probative value of an opinion that is not based on a complete factual and medical background.

[18] *C.M.*, Docket No. 14-88 (issued April 18, 2014).

[19] Moreover, Dr. Ahmed did not discuss the extent to which appellant's left Achilles tendon condition, which has not been established as work related, contributed to her need to be off work from April 12 to 22, 2016.

ORDER

IT IS HEREBY ORDERED THAT the March 10, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 2, 2017
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board