

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TOMAS P. VECCHIO and U.S. POSTAL SERVICE,
POST OFFICE, Lubbock, Tex.

*Docket No. 96-2514; Submitted on the Record;
Issued August 17, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury to his right and left knees that was causally related to factors of his federal employment.

On March 15, 1996 appellant, then a 55-year-old labor custodian, filed a traumatic injury claim, alleging that on June 28, 1989 he injured his right and left knees while walking up the stairs and stepping over a chain. Appellant submitted additional evidence which demonstrated that he did notify the employing establishment of the June 28, 1989 incident on that date. By decision dated May 6, 1996, the Office of Workers' Compensation Programs found that appellant's claim was timely filed but denied the claim on the grounds that the medical evidence did not establish that the claimed condition was causally related to the June 28, 1989 incident.

The Board has carefully reviewed the entire case record on appeal and finds that appellant has not met his burden of proof in establishing that the claimed condition is causally related to the June 28, 1989 incident

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.¹ The Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.² Neither the fact that the condition became apparent during a period of employment nor the belief of appellant that the disease was caused or aggravated by employment conditions is sufficient to establish causal relation.³ While

¹ *Williams Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

² *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

³ *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty,⁴ neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.⁵

In the present case, appellant submitted a duty status report dated March 19, 1996 by Dr. Chittur V. Ananthakrishnan, his attending physician and a Board-certified orthopedic surgeon. In this form report Dr. Ananthakrishnan indicated that appellant was not able to perform his regular job duties and provided restrictions for all activities on the form. Although a history of injury was provided that appellant fell over a chain onto his hands and knees, the physician did not check the appropriate box to indicate that this history of injury correlated with the diagnosed conditions. Thus, this report was insufficient to meet appellant's burden of proof. In a letter dated April 4, 1996, the Office advised appellant that the evidence of record was insufficient to establish that he sustained an injury as alleged and requested that he submit relevant medical records and a rationalized medical report explaining how the alleged incident caused or aggravated the claimed conditions. In narrative report dated March 19, 1996, Dr. Ananthakrishnan noted that appellant had a history of tripping and falling to his knee in June of 1989 and that he now had problems with pain and discomfort in his knees. The physical examination revealed a general valgus deformity with the varius of the tibia on the femur right side, moderately severe patellofemoral crepitation with moderate effusion, evidence of osteophytes along the medial aspect of the tibia and femur in both knees, narrowing of the medial joint space by x-ray, narrowing of the patellofemoral joint space and a few loose bodies, especially on the left side and some chondrocalcinosis. Dr. Ananthakrishnan diagnosed degenerative arthritis with some chondrocalcinosis which was not unusual in someone like appellant with diabetes and hypertension. He concluded that "with the history of the fall [appellant] had a few years ago, it is quite possible that [appellant] knocked off some areas of chondrocalcinosis producing the loose bodies." This report is not sufficient to establish that appellant's claimed conditions are causally related to the June 1989 incident as it is speculative in nature. The physician has not definitively concluded that appellant's conditions are related to the noted incident, but rather, has indicated that it is "possible" that there is some correlation.⁶ As appellant has not submitted sufficient evidence to discharge his burden of proof, he has not established that his claimed conditions are causally related to the June 28, 1989 incident.

⁴ See *Kenneth J. Deerman*, 34 ECAB 641 (1983).

⁵ See *Margaret A. Donnelly*, 15 ECAB 40 (1963); *Morris Scanlon*, 11 ECAB 384 (1960).

⁶ *Charles A. Massenzo*, 30 ECAB 844 (1978).

The decision of the Office of Workers' Compensation Programs dated May 6, 1996 is hereby affirmed.

Dated, Washington, D.C.
August 17, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member