

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES R. CINELLI and U.S. POSTAL SERVICE,  
POST OFFICE, Saugus, Mass.

*Docket No. 96-1964; Submitted on the Record;  
Issued June 18, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury in the performance of duty on September 3, 1991.

The Board has duly reviewed the case on appeal and finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on September 3, 1991.

This case has previously been on appeal before the Board. In its July 14, 1994 decision, the Board found that appellant had not submitted sufficient rationalized medical opinion to establish that he sustained an injury as the result of his September 3, 1991 employment incident.<sup>1</sup> The facts and circumstances of the case as set out in the Board's prior decision are incorporated herein by reference.

Following the Board's July 14, 1994 decision, appellant requested reconsideration and submitted additional new evidence. The Office of Workers' Compensation Programs denied modification of its prior decisions on January 31, 1995. Appellant requested reconsideration on April 25, 1995 and submitted additional evidence. By decision dated July 27, 1995, the Office found the evidence submitted was not sufficient to require merit review of appellant's claim. Appellant requested reconsideration on January 19, 1996 and by decision dated April 21, 1996, the Office denied modification of its prior decisions.

In a report dated October 1, 1992, appellant's attending physician, Dr. Joel Saperstein, an orthopedic surgeon, stated appellant twisted his right knee, while walking on stairs in the performance of duty. Dr. Saperstein diagnosed an internal derangement of the knee resulting in chronic synovitis. He stated, "The right knee problems persisted intermittently after September 3, 1991 and until he reinjured the right knee on April 7, 1992 while he was in the

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<sup>1</sup> Docket No. 93-1013.

process of descending stairs....” Dr. Saperstein stated appellant’s right knee collapsed on stairs. He noted that according to appellant the right knee injuries were all related to industrial trauma. This report is not sufficient to meet appellant’s burden of proof as Dr. Saperstein did not provide any medical rationale in support of his opinion that appellant’s right knee injuries were related to his accepted employment injury.

In a report dated October 21, 1994, Dr. Saperstein noted he first examined appellant on April 13, 1992 for right knee injuries. He noted appellant’s history of injury to include a twisting injury on September 3, 1991. Dr. Saperstein stated, “[Appellant] also noted that over the few months just prior to being seen by me in April of 1992, that standing for prolonged periods of time while he was casing mail caused more pain and stiffness about the knee. Walking and climbing stairs on the job and at home became more and more difficult.” He stated on April 27, 1992 appellant had “spontaneous locking symptoms of the knee, causing him to fall down.” Dr. Saperstein reviewed his treatment of appellant and concluded that “the entire complex appears related to an industrial trauma described on September 3, 1991.” Dr. Saperstein indicated that appellant reinjured his right knee on April 27, 1992, contrary to his earlier report, which listed the date of reinjury as April 7, 1992. Dr. Saperstein also failed to explain how appellant’s accepted employment injury resulted in the diagnosed conditions and whether appellant’s condition were due to the initial employment incident or whether the condition developed over time due to standing and climbing stairs in the performance of duty.

On April 6, 1995 Dr. Saperstein diagnosed contusion of the medial femoral condyle with acute and chronic knee strain. He stated that he was basing his diagnosis on appellant’s historical survey as well as clinical examination. He concluded that appellant’s diagnosed conditions were the direct result of his September 1991 employment incident. Dr. Saperstein did not describe how appellant’s September 1991 employment incident resulted in a contusion and did not offer medical rationale in support of his opinion on causal relationship.

In a report dated November 28, 1995, Dr. Saperstein repeated his earlier reports and stated that he based his conclusion that appellant’s diagnosed conditions were causally related to appellant’s September 3, 1991 employment injury on appellant’s history, the chronological order for his accident and its resulting presentation. Dr. Saperstein stated appellant suffered multiple ligament strains of the right knee on September 3, 1991 as his upper body turned on the left foot and his right foot stayed locked straining the right knee. In this report, Dr. Saperstein described how appellant’s September 1991 employment incident could have resulted in ligament strains, of his right knee. However, Dr. Saperstein did not address the additional work factors and incidents which occurred prior to his initial examination of appellant, such as standing, climbing stairs and the April 7, 1992 fall. Without a detailed description of how these exposures and incidents were related or contributed to appellant’s diagnosed conditions, this report is insufficient to meet appellant’s burden of proof.

The Board notes that Dr. Saperstein’s October 1, 1992 report indicated that appellant’s knee did not require medical treatment until after the April 7, 1992 incident, in which appellant allegedly fell down stairs in the performance of duty. Given that appellant sought treatment for his knee condition within a week after this incident, rather than seven months after the September 1991 employment incident, the medical evidence must establish, through a detailed

history, physical findings and a thorough discussion that appellant's diagnosed conditions are related to the accepted incident rather than to the April 7, 1992 incident.

The decision of the Office of Workers' Compensation Programs dated April 21, 1996 is hereby affirmed.

Dated, Washington, D.C.  
June 18, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member