

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LEONARD A. TOMPKINS and U.S. POSTAL SERVICE,  
POST OFFICE, Livingston, TX

*Docket No. 98-2556; Submitted on the Record;  
Issued August 25, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty on June 16, 1997 as alleged.

On June 17, 1997 appellant filed a claim alleging that he sustained an injury to his left knee on June 16, 1997 when he stepped off a porch and felt pain in the back of his left knee.

In two reports and a disability certificate dated August 14, 1997, Dr. J. Anthony Walter, appellant's attending orthopedic surgeon, related that appellant was delivering mail on June 16, 1997 and twisted his left knee while walking down steps. He provided findings on examination, diagnosed internal derangement of the left knee and indicated that appellant was not able to return to work until further notice.

In a report dated September 10, 1997, a radiologist noted that a magnetic resonance imaging scan of appellant's left knee revealed a tear of the posterior horn of the medial meniscus.

By decision dated October 3, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish causal relationship between his claimed condition and factors of his employment.

By letter dated October 28, 1997, appellant requested an oral hearing before an Office hearing representative and a hearing was held on March 31, 1998.

In an undated report received by the Office on April 20, 1998, Dr. Walter provided findings on examination and stated "In all medical probability if [appellant] was asymptomatic prior to the incident on June [16], 1997 the twisting of the left knee descending the stairs [on June 16, 1997] was the cause of his injury."

By decision dated June 12, 1998, the Office hearing representative affirmed the Office's October 3, 1997 decision.<sup>1</sup>

The Board finds that this case is not in posture for a decision.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his or her claim.<sup>3</sup> The claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.<sup>4</sup> However, it is well-established that proceedings under the Act are not adversarial in nature and, while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.<sup>5</sup> The Office has an obligation to see that justice is done.<sup>6</sup>

Although Dr. Walter failed to provide sufficient medical rationale in support of his opinion that appellant sustained a work-related injury on June 16, 1997 his reports constitute substantial uncontroverted evidence in support of appellant's claim and are sufficient to require that the case be remanded for further development of the claim.<sup>7</sup>

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<sup>1</sup> The Board notes that appellant submitted additional material with his appeal to the Board. The Board has no jurisdiction to consider this material for the first time on appeal. 20 C.F.R. § 501.29(c); *James C. Campbell*, 5 ECAB 35 (1952).

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Ruthie M. Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237-38 (1989).

<sup>4</sup> *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

<sup>5</sup> *Dorothy Sidwell*, 36 ECAB 699, 707 (1985).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> See *John J. Carlone*, *supra* note 6; *Horace Langhorne*, 29 ECAB 820 (1978).

The decisions of the Office of Workers' Compensation Programs dated June 12, 1998 and October 3, 1997 are set aside and the case is remanded for further action consistent with this decision of the Board.

Dated, Washington, D.C.  
August 25, 2000

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member