

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SUSAN L. LOVETERE and U.S. POSTAL SERVICE,
POST OFFICE, Carol Stream, IL

*Docket No. 01-779; Submitted on the Record;
Issued November 26, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained a knee condition in the performance of duty.

On September 2, 2000 appellant, then a 37-year-old letter carrier, filed a notice of occupational disease for knee pain, which she attributed to standing and walking for long periods of time while processing and delivering mail.¹ She indicated on her CA-2 claim form that she did no stop work but that her assignment changed to casing mail only.

In an August 24, 2000 report, Dr. John W. Nikoleit, a Board-certified orthopedist, stated that appellant had been a patient of his since June 26, 2000 when she presented with a shoulder injury but also complained of bilateral knee pain for the last two years. He related that appellant was required to walk up and down stairs many times in the course of delivering mail. On physical examination, Dr. Nikoleit noted that appellant had a bilateral positive patella grind test, minimal swelling and a negative McMurray's test. X-rays showed no degenerative changes.² He diagnosed bilateral patellofemoral syndrome for which he prescribed exercises and anti-inflammatory medication. Dr. Nikoleit stated: "I do believe that this condition was probably brought on by the repetitive nature of climbing up and down stairs during her job."

In an August 22, 2000 treatment note, Dr. Nikoleit noted that appellant continued to complain of bilateral knee pain. He stated: "I do feel that her job as a letter carrier has aggravated her and possibly caused the patellofemoral symptoms she has had."

¹ Appellant noted in a narrative statement that in the fall of 1998 she had been diagnosed with bilateral patellofemoral and chondromalacia by Dr. Hadesman. She stated that the physician prescribed inflammatory medication, physical therapy and had appellant wrap her knees in tape for two years. Appellant alleged that when she went off the medication her knee pain returned. She further noted that she had continued to perform her letter carrier duties.

² A magnetic resonance imaging (MRI) scan was also negative on July 5, 2000.

In a letter dated November 2, 2000, the Office of Workers' Compensation Programs advised Dr. Nikoleit that his diagnosis of patellofemoral syndrome was essentially a finding of pain and discomfort and did not satisfy the medical aspect of a fact of injury determination. Accordingly, the Office requested a rationalized opinion explaining the physician's diagnosis and whether or not the stated diagnosis was causally related to appellant's employment factors as outlined in the letter.³

In a November 22, 2000 report, Dr. Nikoleit noted that appellant's diagnosis of patellofemoral syndrome was documented by a positive patellar grind test and lateral tracking of the patella with narrowing of the lateral facet. He concluded: "I do feel that her job of walking up and down stairs and delivering mail aggravated her condition and may have been the cause as well."

In a decision dated December 4, 2000, the Office denied compensation on the grounds that appellant failed to establish fact of injury. The Office specifically noted that there was insufficient evidence from which to conclude that appellant's knee condition was causally related to work factors.

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

An employee seeking benefits under the Federal Employees' Compensation Act⁴ 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, 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.⁵ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease claim.⁶

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of a disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by claimant were the proximate cause of the condition for which compensation is claimed, or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.⁷

³ The Office indicated that appellant had a history of nonwork-related lupus.

⁴ 5 U.S.C. §§ 801-8193.

⁵ *Duane B. Harris*, 49 ECAB 170 (1970); *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Woodhams*, *supra* note 6.

The medical evidence required to establish causation, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by claimant.⁸

In this case, the Office determined that Dr. Nikoleit failed to provide a reasoned explanation as to how appellant's diagnosed condition of patellofemoral syndrome was causally related to her work duties. Although the Board agrees that Dr. Nikoleit did not fully address the issue of causal relationship, he did specifically state that appellant's bilateral knee condition was aggravated by standing and walking on the job. Dr. Nikoleit also supported his diagnosis of patellofemoral syndrome with reference to x-ray and physical findings. Thus, although Dr. Nikoleit's opinion is not sufficiently rationalized⁹ to carry appellant's burden of proof in establishing her claim, it stands uncontroverted in the record and is, therefore, sufficient to require further development of the case by the Office.¹⁰

Proceedings under the Act are not adversarial in nature and the Office shares responsibility in the development of evidence and has an obligation to see that justice is done.¹¹ While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.¹² On remand, the Office should have appellant examined by a Board-certified physician and undertake any further medical development it deems necessary to ascertain whether appellant is entitled to compensation of an injury in the performance of duty.

⁸ *Id.*

⁹ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹⁰ *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

¹¹ *Norman M. Perras*, 49 ECAB 191 (1997).

¹² *Mark A. Cacchione*, 46 ECAB 148 (1994).

The decision of the Office of Workers' Compensation Programs dated December 4, 2000 is hereby vacated and the case is remanded for further action consistent with this opinion.

Dated, Washington, DC
November 26, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member