

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHEN F. MORGAN and U.S. POSTAL SERVICE,
POST OFFICE, Indianapolis, IN

*Docket No. 01-2155; Submitted on the Record;
Issued September 16, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issues are: (1) whether appellant met his burden of proof to establish that he sustained increased disability on or after January 2001 due to his December 21, 1994 employment injury; and (2) whether appellant met his burden of proof to establish that he sustained an employment-related left knee, left hip or low back condition.

On December 21, 1994 appellant, then a 47-year-old distribution clerk, sustained right ankle fractures due to a fall at work.¹ On that date, appellant underwent a surgical open reduction with internal fixation and incision of his right ankle, which was authorized by the Office of Workers' Compensation Programs. Appellant returned to work on December 23, 1995 in a limited-duty position for eight hours per day.² In January 2001 he began to work for four hours per day in his limited-duty position under the same work restrictions.³ On January 30, 2001 appellant claimed that he sustained left knee, left hip and low back conditions due to performing his duties, including pushing heavy carts and pulling down cases of mail, which weighed up to 30 pounds. He claimed that, in January 2001, these conditions required him to reduce his work schedule in his limited-duty job from eight to four hours. Appellant further

¹ The fractures were to the distal tibia and fibula.

² The job was essentially sedentary in nature and did not require prolonged standing or walking, repeated bending or squatting, or lifting more than 25 pounds. In 1998 appellant filed an occupational injury claim alleging that he developed a left leg and left lower leg condition due to employment factors. This claim was denied and its file has been combined with the file for the current case. In 1998 appellant also filed a claim alleging that he sustained a consequential left knee condition due to his December 21, 1994 employment injury. By decision dated December 30, 1998, the Office denied this claim on the grounds that appellant did not submit sufficient medical evidence in support thereof.

³ On June 13, 2001 appellant stopped work.

claimed that his December 21, 1994, right ankle condition also contributed to the fact that he could only work four hours per day.⁴

The Board finds that appellant did not meet his burden of proof to establish that he sustained increased disability on or after January 2001 due to his December 21, 1994 employment injury.

An employee seeking benefits under the Federal Employees' Compensation Act⁵ has the burden of establishing the essential elements of his 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 within the applicable time limitation period of the Act, 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.⁶ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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 the claimant.⁷

Appellant submitted a May 24, 2001 report, in which Dr. Stephen H. Pollom, an attending Board-certified orthopedic surgeon, noted that he reported increased discomfort in his right leg, ankle and hip along with an increased difficulty in performing his job duties. Dr. Pollom stated, "At this point in time, I think his inability to work is a combination of the fall and surgery, as well as his degenerative joint disease of his hip." In a handwritten note on the report, dated June 25, 2001, Dr. Pollom stated, "The pain in his hip is from degenerative joint disease. The pain in his ankle and leg [is] from the accident." In a form report dated June 8, 2001, Dr. Pollom indicated that appellant could only work for four hours per day.

However, these reports are of limited probative value on the relevant issue of the present case in that Dr. Pollom did not provide adequate medical rationale in support of his conclusion on causal relationship.⁸ Dr. Pollom did not provide a detailed description of the December 21, 1994 employment injury, a right ankle fracture with surgery, or describe the progress of the treatment of appellant's right ankle condition. His reports do not contain an adequate factual and

⁴ This claim was initially developed under a different claim number but it has been combined with the file for the current case.

⁵ 5 U.S.C. §§ 8101-8193.

⁶ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁷ *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

⁸ *See Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding 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).

medical history of appellant's multiple medical problems.⁹ Dr. Pollom did not explain the process through which appellant's employment-related right ankle condition had changed such that he could only work for four hours per day in his limited-duty job after he had been able to work for eight hours per day for a number of years. Moreover, he failed to explain why appellant's increased problems were not solely due to the natural progression of the degenerative disease of his left hip and both knees.¹⁰

In a report dated April 27, 2001, Dr. Johnson stated that appellant could continue to work in his limited-duty position, but that he should only perform "minimal walking" at the job site. He indicated that appellant had severe osteoarthritis of his knee and that his limited-duty job would not aggravate his preexisting knee condition. In a report dated July 3, 2001, Dr. R.B. Patel, a Board-certified internist for the employing establishment, indicated that appellant had "disabling conditions" and required "moderately severe" job restrictions. However, neither Drs. Johnson nor Patel provided any indication that appellant sustained increased disability due to his December 21, 1994 employment injury. Appellant submitted other medical reports concerning his various problems, but they do not explain the cause of these problems.

The Board further finds that appellant did not meet his burden of proof to establish that he sustained an employment-related left knee, left hip or low back condition.

As noted above, an employee seeking benefits under the Act has the burden of establishing the essential elements of his claim; these are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹¹ 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 the 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 the 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 the claimant.¹²

⁹ See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

¹⁰ In a report dated October 13, 2000, Dr. Frank Johnson, Jr., an attending Board-certified orthopedic surgeon, indicated that appellant exhibited osteoarthritis of his left knee when he saw him in October 1999. Dr. Johnson indicated that the work restrictions of appellant's limited-duty job were necessitated by his left knee osteoarthritis and a "neuromuscular weakness of unknown etiology." Diagnostic testing in May 2001, revealed that appellant had degenerative disease in his left hip and both knees.

¹¹ See *supra* notes 6 and 7 and accompanying text; *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

¹² *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

Appellant claimed that he sustained employment-related left knee, left hip and low back conditions due to performing various job duties. However, appellant did not submit any medical evidence providing an opinion that he sustained a left knee, left hip or low back condition due to employment factors. The reports of attending physicians, including Drs. Pollom and Johnson, indicate that appellant had knee and hip problems, but these reports do not provide any indication that these problems were caused or aggravated by his continuing work duties. Appellant has not submitted rationalized medical evidence showing that he sustained an employment-related left knee, left hip or low back condition.

The August 22 and May 9, 2001 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
September 16, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member