

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARVIN A. BRETSSEN, JR. and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 03-955; Submitted on the Record;
Issued May 6, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant met his burden of proof to establish that his left knee arthritis is causally related to a November 23, 1988 injury or other factors of employment.

On May 23, 2001 appellant, then a 52-year-old former welder, filed an occupational disease claim alleging that his left knee osteoarthritis was caused by a fall he sustained at work on November 23, 1988. He stated that continued crawling, squatting and kneeling at work aggravated his condition. In support of his claim, appellant submitted medical evidence and a partial copy of a CA-1 form for a November 23, 1988 injury.

By letter dated June 29, 2001, the Office of Workers' Compensation Programs informed appellant of the evidence needed to support his claim. By decision dated August 21, 2001, the Office denied the claim. On August 27, 2001 appellant requested a hearing that was held on January 8, 2002. At the hearing appellant testified regarding his job duties as a welder,¹ and a discussion was held between the hearing representative and appellant's attorney regarding the type of medical evidence needed to support appellant's claim. The record was then left open for 30 days for the submission of additional evidence.

In a decision dated March 14, 2002, the Office hearing representative found that the medical evidence of record did not establish that appellant's duties as a welder either caused or aggravated his knee condition. He therefore affirmed the prior decision, finding that appellant failed to establish entitlement to compensation for an occupational disease. The hearing representative, however, further noted that medical evidence from appellant's treating physician, Dr. Bradley J. Watters, "indicates that [appellant's] 1988 fall caused prepatellar bursitis of his knee and early arthritic symptoms which were most likely aggravated by the fall and direct

¹ The record indicates that, at the time of the 1988 injury, appellant was employed at the Puget Sound Naval Shipyard. He subsequently began work at the Bangor submarine base and sustained employment-related carpal tunnel syndrome. At the hearing appellant testified that he was not working due to the carpal tunnel syndrome and was undergoing vocational rehabilitation.

contusion.” The hearing representative concluded that he would recommend that appellant file a claim for a consequential injury.

The Board finds that appellant did not establish entitlement to an occupational disease claim.

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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.²

Causal relationship is a medical issue,³ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician’s rationalized medical 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 the claimant.⁴ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁵

The relevant medical evidence consists of a November 25, 1988 report in which Dr. K.D. Hadley, a Board-certified family practitioner, stated that on November 23, 1988 appellant had injured his right ankle coming down a gangplank at work. In a December 2, 1988 report, Dr. Donald E. Stevens, a Board-certified internist, advised that appellant had also hit his left knee when he fell at work and that, while the ankle sprain was improving, his knee had become swollen and painful. Prepatellar septic bursitis was diagnosed.⁶ Appellant was admitted to the hospital for a five-day course of intravenous antibiotics.

Dr. Watters, appellant’s treating Board-certified orthopedic surgeon, provided treatment records. In a January 31, 1996 treatment note, he advised that he had been treating appellant for

² *Solomon Polen*, 51 ECAB 341 (2000).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁴ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

⁶ The laboratory report revealed staphylococcus aureus.

carpal tunnel syndrome with release and that appellant now had a new problem of bilateral knee pain. Dr. Watters diagnosed bilateral early degenerative arthritis of the knees. He submitted reports in which he diagnosed the progression of appellant's bilateral knee arthritis. In a report dated April 12, 2000, Dr. Watters described the work-related left knee injury of November 1988, stating:

“[Appellant] sustained a prepatellar bursitis initially after this injury and subsequently developed some early arthritic symptoms in the knee, most likely aggravated by his fall and direct contusion. Currently [his] symptoms have progressed to where he now has pain and limitations in knee motion.”

Dr. Watters placed restrictions on appellant's work activities which, he advised, were due to the work-aggravated condition.

At the hearing held on January 8, 2002, appellant testified that crawling, kneeling, climbing and carrying heavy tools in his work as a welder contributed to his condition. None of the medical evidence of record, however, provides an opinion that appellant's knee condition was caused by these employment factors. The Board therefore finds that, as the record does not contain rationalized medical evidence that relates appellant's knee condition to these employment factors, he did not establish that he sustained an occupational injury.

The decision of the Office of Workers' Compensation Programs dated March 14, 2002 is hereby affirmed.

Dated, Washington, DC
May 6, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member