United States Department of Labor
Employees' Compensation Appeals Board

ROGELIA VILLA, JR., Appellant **and** **DEPARTMENT OF HOMELAND SECURITY, CUSTOMS & BORDER PROTECTION, Lordsburg, NM, Employer**	)))))))))	**Docket No. 05-1449** **Issued: October 17, 2005**

Appearances:
Rogelia Villa, Jr., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
WILLIE T.C. THOMAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On June 28, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' March 16 and May 19, 2005 merit decisions denying his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained an employment-related occupational disease of his left lower extremity.

FACTUAL HISTORY

On January 21, 2005 appellant, then a 50-year-old senior patrol agent, filed an occupational disease claim alleging that he sustained injury to his left knee due to the duties of his position such as getting in out of his vehicle and walking through rough terrain of a hilly and

mountainous nature on a daily basis.[1] He indicated that he first became aware of his claimed condition on October 1, 2004 and that he first realized that it was related to his employment on January 16, 2005. Appellant did not stop work.[2]

Appellant submitted a January 18, 2005 report in which Dr. Brian Robinson, an attending Board-certified orthopedic surgeon, stated that he reported experiencing left knee pain for several months with prolonged sitting or standing, but that he did not have a recent history of trauma. Dr. Robinson stated that appellant underwent a left knee arthroscopy three years prior and noted that his examination revealed left knee swelling and a normal gait. He indicated that x-ray testing of the left knee showed normal results and diagnosed "pain in joint" involving the left lower leg. Dr. Robinson stated that he thought that most of appellant's pain was related to mild quadriceps atrophy and some inflammation of the hamstrings tendons.

By letter dated February 16, 2005, the Office requested that appellant submit additional factual and medical evidence in support of his claim.

Appellant submitted a February 23, 2005 report in which Dr. Robinson stated that appellant had a left knee arthroscopy three to four years ago and was symptom free until the last six months but did not remember experiencing any specific incident. He noted, "The patient's pain is related to his job duties as a border patrol agent. Every time he runs, jumps, or squats, he has increased left knee pain." Dr. Robinson indicated that his examination showed a mild quadriceps of the left knee with patellofemoral crepitus and grind, diagnosed "left knee pain, possible meniscus tear," and recommended additional diagnostic testing. He stated, "At this point in time, the patient had a long period of time between his knee arthroscopy and onset of symptoms. I do believe that this is related to his work activities and his pain is exacerbated by work duties."

In a report dated March 10, 2005, Dr. Robinson indicated recent magnetic resonance imaging testing revealed a left knee medial meniscus tear with an associated ganglion. He recommended a left knee arthroscopy to address the meniscus tear and excision of the ganglion cyst.[3]

By decision dated March 16, 2005, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained an employment-related condition of the left lower extremity.

Appellant requested reconsideration of his claim and, in a letter dated April 5, 2005, he argued that the February 23, 2005 report of Dr. Robinson showed that his left knee condition was related to his work duties. He also suggested that he had a medial meniscus tear and cyst of the left knee which were caused by the performance of his work duties. Appellant submitted the

[1] Appellant indicated that he was exposed to such conditions between 10 and 60 hours per week.

[2] The Office had previously accepted that appellant sustained an employment-related left knee sprain on February 18, 2000.

[3] The report noted that the medial meniscus tear "was demonstrated on the old study of January 24, 2001" and indicated that the cyst shown on the study was "new."

findings of the magnetic resonance imaging (MRI) scan testing performed on March 5, 2005 which showed he had a left knee cyst and a horizontal tear of the posterior half of the left medial meniscus. He also submitted copies of previously submitted reports of Dr. Robinson.

By decision dated May 19, 2005, the Office affirmed its March 16, 2005 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[4] 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.[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.[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 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. The medical evidence required to establish a causal relationship 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 the claimant.[7]

ANALYSIS

Appellant claimed that he sustained a left lower extremity condition due to the duties of his senior patrol agent position, including getting in and out of his vehicle and walking through rough terrain. By decisions dated March 16 and May 19, 2005, the Office denied appellant's

---

[4] 5 U.S.C. §§ 8101-8193.

[5] *Elaine Pendleton,* 40 ECAB 1143, 1145 (1989).

[6] *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

[7] *Victor J. Woodhams,* 41 ECAB 345, 351-52 (1989).

claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained an employment-related occupational disease of the left lower extremity.

The Board finds that appellant did not submit sufficient medical evidence to show that he sustained an employment-related left lower extremity condition. Appellant submitted a February 23, 2005 report in which Dr. Robinson, an attending Board-certified orthopedic surgeon, stated that his examination showed a mild quadriceps of his left knee with patellofemoral crepitus and grind and diagnosed "left knee pain, possible meniscus tear." Dr. Robinson indicated that appellant had a left knee arthroscopy three to four years ago and stated that he reported that he began having left knee symptoms six months prior without experiencing any specific incident. He noted that appellant's "pain is related to his job duties as a border patrol agent" and stated that every time "he runs, jumps, or squats, he has increased left knee pain." Dr. Robinson concluded, "At this point in time, the patient had a long period of time between his knee arthroscopy and onset of symptoms. I do believe that this is related to his work activities and his pain is exacerbated by work duties."

Dr. Robinson's report, however, is of limited probative value on the relevant issue of the present case in that he did not provide adequate medical rationale in support of his conclusion on causal relationship.[8] He did not describe appellant's employment duties in any detail or explain the medical process through which they could have caused injury to his left knee or any other part of his left lower extremity. Dr. Robinson indicated that appellant reported left knee pain when "he runs, jumps, or squats," but he did not provide any further details of these or other work activities such as the number of hours they were performed per week or the length of time they were part of appellant's duties.[9] Moreover, he did not provide a clear opinion of what specific medical condition he felt was caused or aggravated by appellant's work duties. Dr. Robinson merely indicated that appellant's left knee "pain" was related to his job duties and, in the absence of further explanation, this statement more nearly constitutes a reporting of appellant's symptomatological complaints than a clear opinion on causal relationship.

The record also contains the findings of MRI scan testing performed on March 5, 2005 which showed that appellant had a left knee cyst and a horizontal tear of the posterior half of the left medial meniscus. Although appellant has suggested that these conditions were caused by the performance of his work duties, the record does not contain any medical report indicating that he sustained a left meniscus tear or cyst due to employment factors. The record does not contain any rationalized medical reported which shows that the work duties identified by appellant caused or aggravated a specific medical condition of the left lower extremity.[10]

---

[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).

[9] It should be noted that Dr. Robinson did not make any mention of the specific duties to which appellant attributed his left lower extremity condition such as getting in out of his vehicle and walking through rough terrain.

[10] Appellant submitted additional evidence after the Office's last merit decision of May 19, 2005. However, the Board cannot consider such evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c). Appellant may wish to resubmit such evidence to the Office through the reconsideration process. *See* 5 U.S.C. § 8128; 20 C.F.R. §§ 10.605 to 10.607.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an employment-related occupational disease of his left lower extremity.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' May 19 and March 16, 2005 decisions are affirmed.

Issued: October 17, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board