

aware of his condition on July 6, 2005. Appellant returned to a light-duty position on July 7, 2005.¹

Appellant submitted an undated statement which indicated that he had a preexisting right knee condition and his position as a clerk required continuous standing which caused pain to his knee. He submitted a report from Dr. Steven G. Johnson, a Board-certified internist, dated July 7, 2005, who treated appellant for right knee pain and diagnosed right knee, anterior cruciate ligament tear. In a duty status form of the same date, Dr. Johnson diagnosed anterior cruciate ligament tear and arthritis. He advised that appellant could return to work subject to specified restrictions. Appellant submitted a modified job offer dated July 7, 2005, which indicated that he accepted a limited-duty automation clerk position on July 7, 2005, which conformed to restrictions from his treating physician.

On July 15, 2005 the employing establishment submitted a statement, which indicated that accommodations for a prior injury were made and appellant was not required to stand more than four hours per day.

In a letter dated July 20, 2005, the Office advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors. In a letter of the same date, the Office requested that the employing establishment respond to appellant's claim and describe his employment duties.

Appellant submitted an undated statement noting that he injured his right knee 10 years earlier while playing basketball. At that time, his job was mainly sedentary but within the last four years he was assigned to a new flat sorter machine which required continuous standing. Appellant also volunteered for overtime which added to the stress on his right knee. In a July 26, 2005 report, Dr. Johnson repeated the diagnosis of right knee anterior cruciate ligament tear and noted that an x-ray revealed no acute problem. He advised that appellant could return to a limited-duty position with standing limited to two hours per day. On September 1, 2005 Dr. Johnson noted appellant's complaints of continuous pain in the right knee. He diagnosed right knee anterior cruciate ligament tear and advised that appellant could continue his limited-duty position. Appellant submitted a detailed description of his job duties which included instructions on operating the flat sorter machine.

In a decision dated October 12, 2005, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his knee condition was caused by his employment duties.

In a letter dated November 9, 2005, appellant requested an oral hearing which was held on March 14, 2006. In an October 21, 2005 report, Dr. Johnson noted treating appellant since

¹ On February 1, 2003 appellant filed an occupational disease claim, alleging that he injured his back and right shoulder, file number 01-2014230, which was denied by the Office. On December 13, 2005 he filed an occupational disease claim, alleging that he injured his left hip, file number 01-2032984, which was accepted for left hip trochanteric bursitis. On July 7, 2005 appellant filed an occupational disease claim, alleging that he injured his left foot, file number 01-2030454, which was denied by the Office on October 6, 2005.

1995 after he sustained a right knee injury while playing volleyball. Appellant was seen in consultation with Dr. Dennis Sullivan, a Board-certified orthopedic surgeon, on November 5, 2001 due to increasing problems with standing and climbing. At this time a right knee x-ray revealed good maintenance of the joint space; therefore, reconstruction of the anterior cruciate ligament was deferred. Dr. Johnson noted that during the past two years appellant's job duties required him to operate two automation machines with another employee. They rotated from the feeding position to the sweeping position. The sweeping position required a continuous sweeping motion from the right to the left while standing and many short steps in a stopping motion in conjunction with bending and twisting which placed lateral stress on the knees. Dr. Johnson noted that appellant recently experienced pain with full knee flexion, squatting and deep knee bending and early arthritic changes. He opined that the increased job activity over the previous four to five years aggravated his preexisting torn anterior cruciate ligament and caused a lateral meniscus tear in the right knee. Dr. Johnson indicated that since September 2005 appellant was limited to walking and standing no more than two hours per day. He advised that appellant had a chronic right knee condition which was related to a nonwork-related activity and was not problematic as long as appellant's position was sedentary. However, Dr. Johnson opined that, since appellant's job duties over the last five years required him to stand and operate automation machines, he had reaggravated his preexisting right knee condition which has resulted in work-related restrictions.

By decision dated May 8, 2006, the hearing representative affirmed the June 2, 2005 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or 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 the 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

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) 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 claimant. The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence.

² Gary J. Watling, 52 ECAB 357 (2001).

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.³ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁴

ANALYSIS

In the instant case, it is not disputed that appellant worked as a clerk operating automation machines which required standing for part of his work shift. The Office denied appellant's claim for compensation on the grounds that the medical evidence was not sufficient to establish that his preexisting right knee anterior cruciate ligament tear was aggravated by factors of his federal employment.

The Board notes that medical evidence submitted by appellant generally supports an aggravation of his preexisting right knee anterior cruciate ligament tear from standing and operating two automation machines while performing his clerk duties. Specifically, Dr. Johnson's October 21, 2005 report noted that during the prior two years appellant's job duties required him to operate an automation machine. He described the duties as requiring two employees to rotate from the feeding position to the sweeping position. The sweeping position required a continuous sweeping motion from the right to the left while standing and making many short steps in a stopping motion in conjunction with bending and twisting. This placed lateral stress on the knees. Dr. Johnson noted that appellant recently experienced pain with full knee flexion, squatting and deep knee bending and early arthritic changes. He opined that the increased job activity over the previous four to five years had aggravated the preexisting condition of the torn anterior cruciate ligament and lateral meniscus tear in the right knee. Appellant had a chronic right knee condition which was related to a nonwork-related activity and was not problematic as long as appellant's position was sedentary. Dr. Johnson stated that appellant worked on his feet operating automation machines for "the better part of eight hours a tour," which aggravated his preexisting right knee condition. Although his opinion is not sufficiently rationalized to carry appellant's burden of proof in establishing his claim, it is uncontroverted in the record. Dr. Johnson provided an extensive description of appellant's work duties which should be commented upon by the employing establishment. The evidence is sufficient to require further development of the case by the Office.⁵

³ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁴ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁵ *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

Proceedings under the Act are not adversary in nature nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence. It has the obligation to see that justice is done.⁶

The Board will remand the case to the Office for preparation of a statement of accepted facts concerning appellant's working conditions. Therefore, it should develop the medical evidence as appropriate to determine whether appellant sustained an aggravation of his preexisting right knee condition as a result of performing his employment duties. Following this, and any other further development as deemed necessary, the Office shall issue an appropriate merit decision on appellant's claim.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the May 8, 2006 and October 12, 2005 decisions of the Office of Workers' Compensation Programs are hereby set aside and the case is remanded for further development in accordance with this decision of the Board.

Issued: December 15, 2006
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁶ *John W. Butler*, 39 ECAB 852 (1988).