

On July 17, 2006 appellant, then a 57-year-old letter carrier, filed an occupational disease claim alleging that he had pain and swelling in his right ankle and knee due to his work. He alleged that his duties as a letter carrier included more stops, and routes that contained 20 to 30 blocks of street work, as well as numerous steps. Appellant indicated that he first became aware

of the injury and its relation to his work on June 12, 2006. The employing establishment indicated that appellant was on restricted duties for his right shoulder and had nonoccupational restrictions. The employing establishment also noted that he had been assigned to sedentary work since June 30, 2006. Appellant did not stop work.

By letter dated August 10, 2006, the Office informed appellant of the type of evidence needed to support his claim and requested that he submit such evidence within 30 days.

In a letter dated August 27, 2006, appellant advised the Office that he did not engage in sports. He also noted that his hobbies were hunting and fishing; however, he was unable to do these for more than two weeks in a year because of his “diminished capacity” from his injury and several others. Appellant noted that he was hired with two disabilities which required him to wear an ankle sock and an elastic knee brace. He alleged that on July 28, 2004 he injured his right ankle while removing mail from a collection box. Appellant also noted that, on July 28, 2005, he twisted his right leg and right ankle on uneven ground while delivering parcels. He included statements pertaining to these incidents.

Appellant also submitted reports dating from October 1, 2004 to January 12, 2005 from his treating physician, Dr. Paul H. Steinfield, a Board-certified orthopedic surgeon. In his October 20, 2004 report, Dr. Steinfield noted that a magnetic resonance imaging (MRI) scan of the right ankle revealed severe degenerative joint disease (DJD) and an MRI scan of the right knee was unremarkable. He recommended a right ankle injection; however, he indicated that appellant refused the injection and he prescribed an ankle foot orthosis. In his November 17, 2004 treatment note, Dr. Steinfield found that appellant’s right knee pain persisted and indicated that appellant had not picked up the ankle foot orthosis. He examined appellant’s knee and advised that he did not have joint effusion, and noted that he had full range of motion, a painful patellofemoral grind, and tenderness of the quadriceps tendon and posteromedial corner. Dr. Steinfield advised that appellant had patellofemoral pain and prescribed a patellar stabilizing knee sleeve. In his December 15, 2004 report, he noted that appellant was using his ankle foot orthosis, which relieved some symptoms, but that he had not picked up his knee sleeve. Dr. Steinfield conducted an examination of the knee and recommended an exercise program and a knee sleeve. In his January 12, 2005 report, he noted that appellant indicated that the knee sleeve and ankle brace helped and he was working full duty.

By decision dated October 10, 2006, the Office denied appellant’s claim, as the medical evidence was insufficient to establish that his condition was caused by employment factors. The Office accepted that appellant performed the duties of a letter carrier and had been diagnosed with a right knee and ankle condition; however, the medical evidence did not establish a medical condition arising from the claimed employment factors.

In a July 10, 2006 report, Dr. Steinfield stated that he first saw appellant in November 2004 as a “private patient” for complaints of pain and swelling in the right knee and ankle. He indicated that he prescribed an ankle orthosis and a stronger more supportive knee sleeve. Dr. Steinfield recommended therapy for strengthening of the knee, and advised that appellant still had restrictions because of instability in his right knee and ankle. He indicated that appellant was not able to safely enter or exit a right hand drive vehicle and advised that hills,

ramps, steps and uneven ground should be avoided or kept to a minimum. Dr. Steinfield noted that appellant could stand or walk for up to six hours in an eight-hour workday.

In a September 22, 2006 report, Dr. Craig Garfield, an osteopath, noted that appellant's job required that he go up and down long ramps and multiple flights of stairs in order to perform his letter carrier duties. He indicated that these job activities caused an extreme increase in pain in the right knee and less mobility. Dr. Garfield noted that appellant had an injury in 1997 to the right ankle and knee, while working as a police officer. He noted that appellant returned to work but experienced several incidents afterwards and he retired on disability. Dr. Garfield noted that appellant sustained an injury on July 20, 2004, while working as a letter carrier and injured his right knee and ankle, and again in July 2005 while walking on an uneven sidewalk while delivering mail. He indicated that appellant was promoted to a regular carrier in June 2006 and was transferred to a new station, which required different activities than he was "previously used to." Dr. Garfield advised that, on two occasions in June 2006, appellant had an extreme increase in pain in his right knee and ankle, which he reported to his supervisor on June 30, 2006 and related that he could not complete the assignment because of pain. He opined that appellant's right knee and ankle problems were aggravated by his letter carrier duties. Dr. Garfield diagnosed end-stage osteoarthritis of the right ankle, and opined that it was permanent and would not improve. He also diagnosed right patellofemoral pain syndrome and opined that appellant had reached maximum medical improvement.

On October 23, 2006 appellant's representative requested a hearing, which was held on February 7, 2007.

In an October 25, 2006 statement, appellant alleged that he sustained injuries to his right ankle, knee, and leg as a result of his employment activities as a letter carrier. He referenced a July 28, 2004 incident that occurred when he stepped on uneven pavement and his right foot turned sideways and subsequently twisted his right knee. Appellant alleged that he did not submit a CA-1 at that time, although he verbally informed his supervisor, because he did not believe it was severe enough to warrant medical attention. However, after continued pain and swelling, he related that he sought medical treatment. Appellant alleged that he was given an elastic ankle brace and knee brace, which allowed him to continue in his duties. He further alleged that in July 2005 he lost his footing while crossing an area of broken concrete and pavement and twisted his right leg and ankle, which he reported to his supervisor. Appellant alleged that he continued to work, but also sought the services of an orthopedist on several occasions. He alleged that he was promoted and transferred to a new station on June 10, 2006. Appellant alleged that he was required to go up and down a long ramp over eight feet high and that he had to climb multiple flights of steps, which caused him to experience an extreme increase in pain in his right knee and ankle and which caused him to be less mobile. He alleged that, on June 27, 2006, he had to walk up and down 30 steps each way to the garage to obtain a vehicle and return it, so that he could deliver "express mail." Appellant noted that he was given a similar assignment on June 29, 2006 and had increased pain and swelling in his right knee and ankle. He alleged that he notified his supervisor on June 30, 2006 that he could not complete an assignment due to the pain. Appellant stated that, prior to July 28, 2004, the last time he required specific medical treatment for his right knee and ankle was in 1985 or 1986. He noted that the employing establishment was aware of his injury when he was hired on July 12, 2003.

By decision dated April 6, 2007, the Office hearing representative affirmed the Office's October 10, 2006 decision.

LEGAL PRECEDENT

In order 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.¹ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.²

To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings on examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion.³

ANALYSIS

The Board finds that this case is not in posture for decision regarding whether appellant sustained a right knee and ankle condition in the performance of duty.

The Office accepted and the evidence establishes that appellant performed the duties of a letter carrier which required walking, including going up and down stairs. However, the Office found that the medical evidence did not establish a medical condition arising from these employment factors.

The Board notes, as set forth above, that the record contains medical evidence indicating that there is a causal relationship between appellant's employment activities and his right knee and ankle conditions. Dr. Garfield's September 22, 2006 report detailed the employment factors and activities described by appellant in his statements. In particular, he noted that appellant injured his right knee and ankle at work on July 20, 2004 and again on July 20, 2005, while walking on uneven sidewalk. Dr. Garfield was also aware that appellant was transferred to a new station, which required new activities other than what he was previously used to performing, and included going up and down a long ramp with multiple flights of stairs to perform his letter carrier duties. He opined that appellant's right knee and ankle conditions were aggravated by his duties as a letter carrier. Furthermore, Dr. Garfield noted that, despite having previous injuries

¹ *Solomon Polen*, 51 ECAB 341 (2000); *see also Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 1.

³ *Donald W. Long*, 41 ECAB 142, 146-47 (1989).

related to his duties as a police officer, appellant was able to perform his letter carrier duties until he had several incidents at work that increased his symptomatology and discomfort and exacerbated his symptoms.

The Board finds that the report from Dr. Garfield regarding the causal relationship between appellant's right knee and ankle conditions and the factors of employment, while not fully rationalized, is sufficient to require further development of the case record by the Office.⁴ Proceedings under the Act are not adversarial 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 to see that justice is done.⁵ Additionally, the Board notes that in this case the record contains no contrary medical opinion. The case will be remanded for the Office to refer appellant for a second opinion examination to determine causal relationship. Following this and such further development as the Office deems necessary, an appropriate decision should be issued.

CONCLUSION

The Board finds that this case is not in posture for decision as to whether or not appellant's right knee and ankle conditions are causally related to factors of his employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 6, 2007 is set aside and remanded for further development consistent with this decision.

Issued: March 25, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁴ See *Felix Flescha*, 52 ECAB 268 (2001); *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

⁵ *Claudio Vazquez*, 52 ECAB 496 (2001).