United States Department of Labor
Employees' Compensation Appeals Board

J.T., Appellant	)	
and	)	**Docket No. 11-619**
	)	**Issued: November 3, 2011**
U.S. POSTAL SERVICE, POST OFFICE, Durham, NC, Employer	)	

Appearances:
Greg Dixon, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 11, 2001 appellant filed a timely appeal from the October 8, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his request for authorization of surgery and the November 30, 2010 merit decision of OWCP denying his claim for recurrence of disability. Pursuant to the Federal Employees' Compensation Act (FECA)[1] and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant met his burden of proof to establish that he sustained a recurrence of disability commencing December 2, 2008 due to his July 11, 2002 employment injury; and (2) whether OWCP abused its discretion by denying appellant's request for authorization of surgery.

[1] 20 C.F.R. § 8101 *et seq.*

FACTUAL HISTORY

On July 11, 2002 appellant, then a 42-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that he was knocked down that day by a dog and injured his left wrist and left knee.[2] OWCP accepted that he sustained a sprain of the lateral collateral ligament of his left knee with a torn lateral meniscus. Appellant received compensation for periods of disability.

Appellant was initially treated by Dr. Vijay Patel, a Board-certified family practitioner, who reported on July 11, 2002 that he suffered a dog attack and hurt his left wrist, knee and ankle. Dr. Patel stated that the attack "mainly affected left big toe, left knee and left thumb/wrist. Also fell back onto buttocks so sore there too. No frank bite but small scrape chunk off right shin noted." On examination, appellant had a shallow ulcer of his right shin, swelling and some discomfort of his left wrist and thumb, tenderness, pain and swelling of his left knee and left big toe and positive McMurray's sign of the left knee. Dr. Patel diagnosed left wrist sprain/strain, left foot sprain/strain and left knee sprain. He made no comments about appellant having back pain or a back condition. In an August 22, 2002 form report, Dr. Patel advised that appellant had resolved left wrist and left foot sprains and continued with a left knee sprain.

In an October 15, 2002 report, Dr. Philip Clifford, an attending Board-certified orthopedic surgeon, noted that appellant had a left wrist/hand injury that resolved and a left knee injury that continued.[3] On February 25, 2003 he performed left knee surgery, for a partial lateral meniscectomy which was authorized by OWCP.[4] On April 16, 2003 appellant returned to full-duty work at the employing establishment.

In a May 13, 2004 report, Dr. Theodore M. Pitts, an attending Board-certified orthopedic surgeon, reviewed the history of a July 11, 2002 dog attack that injured appellant's left knee. He stated that appellant complained of some pain to his low back and that radiated behind his thigh into his left great toe. Dr. Pitts reported examination findings for appellant's left knee and diagnosed probable torn meniscus and osteoarthritis or post-traumatic arthritis of his left knee.

OWCP referred appellant to Dr. Craig Derian, a Board-certified orthopedic surgeon, for an evaluation of permanent impairment of his left knee. In a March 3, 2005 report, Dr. Derian addressed appellant's left knee and did not mention his back or left foot. OWCP also referred appellant to Dr. Paul H. Wright, a Board-certified orthopedic surgeon, for evaluation of permanent impairment of his left knee. In a July 5, 2005 report, Dr. Wright stated that appellant reported that getting up from a chair and going up and down steps caused left knee pain going down into the great toe of his left foot. Appellant did not report any back pain and Dr. Wright gave no diagnoses of the back or left foot.

[2] Appellant was attacked by two dogs on July 11, 2002, but only suffered a fall during the second dog attack.

[3] The findings of October 24, 2002 magnetic resonance imaging (MRI) scan testing of appellant's left knee showed an anterior cruciate ligament (ACL) cyst, but the findings were otherwise unremarkable.

[4] Dr. Clifford treated appellant until January 2004 but made no mention of left foot, left toe or back conditions.

In a December 7, 2006 report, Dr. Pitts stated that appellant reported some pain in his right lower back area and stated, "I think that is due to overcompensation for his left knee." He noted that if appellant did not feel better in a week or two, he would reevaluate his back pain in more depth. On March 27, 2007 Dr. Pitts stated that appellant was complaining of some increased low back pain which he felt was due to limping necessitated by his left knee condition. He reported findings for appellant's left knee and stated that his back symptoms would need to be worked up in a later visit. On April 18, 2007 Dr. Pitts performed several left knee procedures, including arthroscopic resection of the medial and lateral suprapatellar plica, partial medial and lateral meniscectomy, subtotal synovectomy, chondroplasty and lateral retinacular release. The procedures were authorized by OWCP.

In a May 29, 2007 report, Dr. Pitts noted that appellant reported some tenderness and tightness of the thoracolumbar area. He provided findings on physical examination of appellant's back, noting tenderness over the thoracolumbar spine with musculature tightness. Dr. Pitts did not provide a back diagnosis. In a July 5, 2007 report, he stated that appellant reported occasional left foot numbness, but he did not perform an examination of his left foot. On July 11, 2007 Dr. Pitts performed OWCP-authorized left knee surgery, including arthroscopic lysis of adhesions and manipulation of knee under general anesthesia.

In a July 26, 2007 report, Dr. Pitts stated that appellant reported that since he has been limping on his left knee, his back has started to bother him. He advised appellant that his back was not a workers' compensation accepted diagnosis and that he needed to come back on another day under his own health insurance for evaluation and treatment. In an April 18, 2008 report, Dr. Pitts stated that appellant reported that, from time to time, he experienced low back pain which he felt was the result of his left knee condition. Appellant asked whether this could be considered a workers' compensation injury. Dr. Pitts responded that if appellant had a specific injury to his back at work on a specific day, then there was a chance that his back could be considered a workers' compensation condition.[5]

On December 9, 2008 appellant filed a claim alleging a recurrence of disability on December 2, 2008 due to his July 11, 2002 injury.[6] He asserted that, in addition to the accepted left knee conditions sustained on July 11, 2002, he also sustained injury to his low back which caused pain to radiate down through his left thigh and shins into his left foot and left great toe. Appellant experienced loss of strength and restricted range of motion in his back and left leg.

In a December 2, 2008 report, Dr. Pitts noted that appellant brought documentation of his original on-the-job injury of July 11, 2002, which noted pain in his left wrist, left knee and left foot. He stated that appellant reported he was attacked by a pack of dogs when he fell and sustained injury. Appellant reported that physicians focused on his left knee, that his left wrist problem resolved spontaneously and that his left foot problem had been getting worse recently. Dr. Pitts stated, "[Appellant] is becoming more and more insistent that this be addressed through

[5] In October 23 and November 13 and 24, 2008 reports, Dr. Pitts indicated that appellant again mentioned back pain with pain radiating into his left leg, but he advised him that he would have to come back on another day for evaluation of this condition under his own health insurance as his back injury was not work related.

[6] It does not appear that appellant stopped work at this time.

workers' compensation. Discussed with the patient that it does seem reasonable that he has a case. I have frequently seen patients where the back problem was ignored because it was not easy to handle."

In a January 8, 2009 report, Dr. Poorvi Shah, an attending Board-certified internist, advised that appellant reported that on July 11, 2002 a dog attacked him and that he turned around and fell and then experienced left wrist, knee and foot pain. Appellant continued to have pain that traveled from his left hip to his left knee and then traveled down his left shin into his left big toe and the ball of his left foot. He reported that he did not have back pain after his December 2, 2008 injury but he did have left foot pain. Appellant did not experience pain in his back until 2004. In a January 12, 2009 letter, Dr. Shah indicated that appellant complained of persistent foot pain and intermittent back pain that began after his 2002 injury. He stated that the cause of the foot pain had not been determined and that appellant had an appointment scheduled with an orthopedic surgeon. In an undated report, Dr. Shah indicated that appellant complained to Dr. Patel on July 11, 2002 of foot pain and then did not mention it again to the medical practice until January 8, 2009.

In a January 26, 2009 decision, OWCP denied appellant's claim finding that he did not submit sufficient medical evidence to establish a recurrence of disability on or after December 2, 2008 due his July 11, 2002 employment injury. It found that he did not show that on July 11, 2002 he sustained a low back injury that caused pain to radiate down into his left leg.

A February 20, 2009 MRI scan test of appellant's lumbar spine showed a left posterolateral disc protrusion at L4-5 with compression of the medial aspect of the left L4 foramen and facet degenerative joint disease and disc degeneration at L5-S1 without significant neural compression. In a March 10, 2009 report, Dr. Pitts reviewed the MRI scan findings and diagnosed low back pain.

In a June 7, 2009 report, Dr. Pitts stated that, on July 11, 2002, appellant experienced an on-the-job injury. He stated, "At that time [appellant] was a letter carrier. He was attacked by a dog. [Appellant] experienced pain in his left wrist, his low back, his left thigh and left knee." Appellant reported that the pain radiated into his left foot and into his left great toe. Dr. Pitts summarized his treatment of appellant and noted the times that he mentioned left foot, left toe or back pain. He noted that appellant's low back and left foot/toe complaints greatly increased by late 2008 and stated:

> "In summary, the patient has been persistent and consistent in complaining of low back, left lower extremity, left leg, left foot pain since his original on-the-job injury of July 11, 2002. Those complaints were put on hold because his left knee was his most painful area. Now that the left knee pain is under better control, he is feeling the low back and left foot pain more. Also, since it has not been treated it is deteriorating with the passage of time with continued work. [Appellant] most of the time has not taken much time off from work. That is he is continuing to walk, lift, bend at work, which aggravates his original on-the-job injury. Therefore, I am writing at this time to try to clearly request that [appellant's] back condition be considered a workers' compensation injury. [Appellant's] diagnoses are L4-5 disc bulge and disc protrusion, L5-S1 tear of the posterior annulus with

disc bulge. It is my best professional opinion that these are a direct result of his on-the-job injury of July 11, 2002."

In a June 8, 2009 form report, Dr. Pitts diagnosed L4-5 left disc protrusion and L5-S1 tear posterior annulus with bulge and checked "yes" to the question of whether these conditions were related to the July 11, 2002 work injury. He stated, "Pain started with injury and has persisted because of insufficient treatment." Dr. Pitts gave a history that on July 11, 2002 appellant was attacked by a dog and had pain to his low back, left thigh, left knee and left great toe.

Appellant requested a hearing before an OWCP hearing representative. At the June 10, 2009 hearing, he testified that before July 11, 2002 he had no conditions of the left knee, left foot or back and had received no medical examination or treatment for them. Appellant indicated that after he was knocked down by a dog on July 11, 2002 he had pain in his left knee which traveled down his left shin into his left foot and left great toe. He reported having no off-the-job accidents to his left knee, left foot or back after July 11, 2002. Appellant stated that he self-treated his pain for a while, but that the pain became so bad that he sought medical treatment.

In a July 21, 2009 decision, an OWCP hearing representative affirmed OWCP's January 26, 2009 decision. He found that the reports of Dr. Pitts concerning appellant's back condition were not based on a complete and accurate factual and medical history.

Appellant submitted additional reports of Dr. Pitts dated between September 2009 and March 2010. These reports focused on Dr. Pitts' treatment of appellant's left knee and low back conditions. In a February 9, 2010 report, Dr. Pitts stated that December 31, 2009 MRI scan testing showed that appellant had an ACL cyst in his left knee.

In a May 13, 2010 report, Dr. Anne Marie Fras, an attending Board-certified anesthesiologist, stated that appellant reported that on July 11, 2002 he was knocked down on his left side during a dog attack and had an acute onset of pain in the lower back and buttocks on that date. She diagnosed low back and left lower extremity pain, left knee pain and chronic opioid use. In several reports dated between June and October 2010, Dr. Fras discussed appellant's left knee and back conditions, but she did not provide any opinion on the cause of his back condition.

On July 16, 2010 appellant requested authorization for surgery to repair the ACL ligament in his left knee. On July 23, 2010 Dr. Louis C. Almekinders, an attending Board-certified orthopedic surgeon, performed a left knee arthroscopy with debridement of the anterior cruciate ligament and notchplasty.

In support of his request for reimbursement for the ACL surgery performed on July 23, 2010, appellant submitted an April 29, 2010 report in which Dr. Almekinders stated that MRI scan testing from 2002 and 2009 showed a left ACL cyst. In an August 27, 2010 letter, Dr. Almekinders stated that appellant sustained a documented left knee injury on July 11, 2002 and his claim was accepted for a left knee strain. He indicated that every MRI scan test of

appellant's left knee since this injury has shown abnormal changes in his ACL, including a test as early as October 24, 2002. Dr. Almekinders stated:

> "These changes have been described as an ACL cyst or cystic degeneration. This is thought to result from an incomplete injury and therefore is consistent with a 'knee strain' sustained on July 11, 2002. The most recent arthroscopic surgery that I performed on July 23, 2010 was intended to address these ACL changes. This was never addressed in any of his prior treatments by other orthopedic surgeons."

In an October 8, 2010 decision, OWCP denied appellant's request for authorization of surgery finding that Dr. Almekinders did not provide a rationalized medical report explaining how his ACL cyst and need for surgery was related to the July 11, 2002 work injury.

Appellant contended that his back condition with pain radiating into his left leg was a disabling work-related condition. In an October 25, 2010 report, Dr. Fras diagnosed left radicular pain in the L4 distribution and left knee pain.

In a November 30, 2010 decision, OWCP affirmed its July 21, 2009 decision denying appellant's claim for recurrence of disability.

LEGAL PRECEDENT -- ISSUE 1

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.[7] This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.[8] Where no such rationale is present, medical evidence is of diminished probative value.[9] The Board has held that the fact that a condition manifests itself or worsens during a period of employment[10] or that work activities produce symptoms revelatory of an underlying condition[11] does not raise an inference of causal relationship between a claimed condition and employment factors.

The general rule respecting consequential injuries is that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an

[7] *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986).

[8] *Mary S. Brock*, 40 ECAB 461, 471-72 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

[9] *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

[10] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[11] *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

independent intervening cause, which is attributable to the employees own intentional conduct.[12] The claimant bears the burden of proof to establish a claim for a consequential injury. As part of this burden, he must present rationalized medical opinion evidence.[13]

ANALYSIS -- ISSUE 1

OWCP accepted that appellant sustained a sprain of the lateral collateral ligament of his left knee and a tear of the lateral meniscus of his left knee. On February 23, 2003 appellant underwent a meniscectomy of his left knee and, on April 18, 2007, he underwent several left knee procedures, including arthroscopic resection of the medial and lateral suprapatellar plica, partial medial and lateral meniscectomy, subtotal synovectomy, chondroplasty and lateral retinacular release. These surgeries were authorized by OWCP.

As part of the claim for recurrence of disability, appellant and his representative have asserted, both before OWCP and on appeal to the Board that on July 11, 2002 appellant also sustained a back injury which caused pain to radiate down his left thigh and shin into his left foot and great toe. He believed that this work-related condition caused him to suffer a work-related recurrence of disability on December 2, 2008. The Board notes, however, that OWCP has not accepted any condition relating to appellant's back or lumbar spine.

In support of his recurrence of disability claim, appellant submitted reports of Dr. Pitts, an attending Board-certified orthopedic surgeon, who opined that his back condition (with pain radiating down his left leg into his left foot) was causally related to the July 11, 2002 employment injury. In a June 7, 2009 report, Dr. Pitts stated that appellant reported that after his July 11, 2002 injury he experienced pain in his left wrist, low back, left thigh and left knee. He asserted that appellant had been persistent and consistent in complaining of low back, left leg and left foot pain since his July 11, 2002 injury. Dr. Pitts stated that these complaints were put on hold because appellant's left knee was his most painful area and posited that his back and left foot conditions were deteriorating with the passage of time with continued work.[14] He stated, "I am writing at this time to try to clearly request that the patient's back condition be considered a workers' compensation injury. [Appellant's] diagnoses are L4-5 disc bulge and disc protrusion, L5-S1 tear of the posterior annulus with disc bulge. It is my best professional opinion that these are a direct result of his on-the-job injury of July 11, 2002."[15]

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[12] *S.S.*, 59 ECAB 315 (2008).

[13] *Charles W. Downey*, 54 ECAB 421 (2003).

[14] Dr. Pitts stated that the fact that appellant was continuing to walk, lift and bend at work aggravated his original on-the-job injury. He did not provide a clear opinion that appellant sustained a new work injury and he has not filed such a claim.

[15] In a December 2, 2008 report, Dr. Pitts stated that appellant came in with documentation of his original on-the-job injury on July 11, 2002 which indicated pain in his left wrist, left knee and left foot. He noted that appellant sustained injury to these three areas but that physicians focused on treating his left knee. Dr. Pitts stated, "He is becoming more and more insistent that this be addressed through workers' compensation. Discussed with the patient that it does seem reasonable that he has a case." In a June 8, 2009 form report, Dr. Pitts diagnosed L4-5 left disc protrusion and L5-S1 tear posterior annulus with bulge and checked "yes" to the question of whether these conditions were related to the July 11, 2002 work injury.

Dr. Pitts' opinion on causal relationship is of limited probative value because it is based on an incorrect history that beginning July 11, 2002 appellant had low back pain radiating down into his left thigh as well as consistent left foot pain. The Board notes that a review of the medical record reveals that appellant did not complain of back pain or pain radiating from his back down into his left leg until almost two years after the July 11, 2002 employment incident.[16] Dr. Pitts did not indicate that he had reviewed all the relevant medical evidence which would have shown him that appellant did not initially have complaints of low back pain with pain radiating into the left leg. This medical evidence would also have advised him that appellant's later reports of back pain, pain radiating into his left leg and left foot pain were sporadic in nature. Dr. Pitts has not explained how appellant's low back disc abnormalities, diagnosed more than six years after the July 11, 2002 employment injury, could be related to the July 11, 2002 injury given that appellant did not report back pain or pain radiating into his left leg until 2004. He did not describe the July 11, 2002 employment injury in any great detail or explain the medical process through which it could have caused the claimed back injury. Dr. Pitts' reports are not sufficiently well rationalized on the matter of causal relationship and therefore do not establish that appellant's low back and radiating leg pain problems were causally related to his July 11, 2002 employment injury. His reports do not show that appellant sustained a recurrence of disability on or after December 2, 2008.

Before OWCP and on appeal to the Board, appellant also argued that he sustained a low back injury as a consequence of his left knee condition and that this condition also contributed to a recurrence of disability on December 2, 2008. In a December 7, 2006 report, Dr. Pitts wrote that appellant reported that he had some pain on his right lower back area and he posited that his pain was due to overcompensation for his left knee.[17] An employee claiming a consequential injury has the burden to provide rationalized medical evidence showing how the subsequently acquired medical condition is a consequence of the prior employment injury.[18] Dr. Pitts' opinion regarding a consequential injury is of little probative value because he did not provide adequate medical rationale in support of this opinion. He did not detail how appellant compensated for his left knee injury or describe the medical process of how such compensation could have caused a low back injury. Appellant has not established a consequential injury or any other work-related condition which would have caused him to sustain a recurrence of disability on or after December 2, 2008.

The Board further notes that the medical evidence also does not show that appellant sustained a recurrence of disability on or after December 2, 2008 as a result of his accepted left knee injuries, a sprain of the lateral collateral ligament and a tear of the lateral meniscus. Although several physicians indicated that appellant reported pain in his left knee during the period of the claimed recurrence of disability, the record does not show a rationalized medical opinion relating the accepted left knee injuries to the claimed disability.

[16] Appellant reported pain in his buttocks and left foot on July 11, 2002, but there is no indication that he reported that the buttocks pain extended into his back or that pain radiated down his left leg at that time. The medical reports after July 11, 2002 contain few references to buttocks or left foot pain.

[17] Appellant later reported to Dr. Pitts that he felt that the limping caused by his left knee condition contributed to his low back condition.

[18] *See supra* notes 12 and 13.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.[19] Appellant failed to submit rationalized medical evidence establishing that his claimed recurrence of disability on or after December 2, 2008 was causally related to the accepted employment injury and therefore OWCP properly denied his claim for compensation.

LEGAL PRECEDENT -- ISSUE 2

Section 8103(a) of FECA states in pertinent part: "The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation."[20] In order to be entitled to reimbursement of medical expenses, appellant has the burden of establishing that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.[21] Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.[22]

ANALYSIS -- ISSUE 2

Appellant requested that OWCP authorize surgery to repair the anterior cruciate ligament in his left knee. He submitted an August 27, 2010 letter in which Dr. Almekinders, an attending Board-certified orthopedic surgeon, indicated that every MRI scan test of his left knee since the July 11, 2002 injury had shown abnormal changes in his ACL, including a test as early as October 24, 2002.[23] Dr. Almekinders stated that the changes observed on testing, described as an ACL cyst or cystic degeneration, were thought to result from an incomplete injury and therefore were consistent with the knee strain sustained on July 11, 2002. He noted that the arthroscopic surgery that he performed on July 23, 2010 was intended to address these ACL changes and stated, "This was never addressed in any of his prior treatments by other orthopedic surgeons."

The Board find that Dr. Almekinders' opinion on the relationship between appellant's July 11, 2002 employment injury and his left ACL condition is of limited probative value regarding the need for left knee surgery due to a work-related condition because he did not provide adequate medical rationale explaining how the observed ACL condition was related to the July 11, 2002 employment injury. Appellant's claim was accepted for injury to the lateral

[19] *See Walter D. Morehead*, 31 ECAB 188, 194-95 (1986).

[20] 5 U.S.C. § 8103.

[21] *Bertha L. Arnold*, 38 ECAB 282, 284 (1986).

[22] *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981); *John E. Benton*, 15 ECAB 48, 49 (1963).

[23] In an April 29, 2010 report, Dr. Almekinders stated that MRI scan testing from 2002 and 2009 showed a left ACL cyst.

collateral ligament and lateral meniscus of his left knee, but not for any injury to the ACL. The mere fact that an ACL abnormality was observed on diagnostic testing several months after the July 11, 2002 employment injury would not establish a work-related cause for that abnormality.[24] Dr. Almekinders did not describe the July 11, 2002 incident in any detail or explain how it could have caused an ACL cyst. Moreover, he did not explain why appellant's ACL condition would require surgical intervention. Such medical rationale is especially necessary because, as Dr. Almekinders acknowledged, appellant's ACL condition did not receive any notable medical attention for more than seven years after the July 11, 2002 injury. Appellant did not submit any other medical evidence regarding his need for left ACL surgery and OWCP did not abuse its discretion in refusing authorization for this surgery.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a recurrence of disability on or after December 2, 2008 due his July 11, 2002 employment injury. The Board further finds that OWCP did not abuse its discretion by denying his request for authorization of left knee surgery.

[24] *See supra* notes 10 and 11.

ORDER

IT IS HEREBY ORDERED THAT the November 30 and October 8, 2010 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 3, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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