

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD J. AGUON and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 99-1862; Submitted on the Record;
Issued December 14, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
VALERIE D. EVANS-HARRELL

The issue is whether appellant sustained a left knee injury in the performance of duty on November 19, 1998, as alleged.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that he sustained a left knee injury in the performance of duty on November 19, 1998, as alleged.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.¹ Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that he sustained an injury in the performance of duty and that his disability was caused or aggravated by his employment.² As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.⁵

¹ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

² *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

³ *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁴ *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁵ *Joseph T. Gulla*, *supra* note 3.

On November 30, 1998 appellant, then a 38-year-old welder, filed a traumatic injury claim for compensation benefits alleging that on November 19, 1998, while he walked down the steps of Building DD6 pierside, his left knee gave out. He stopped work on November 19, 1998 and returned to work on November 30, 1998. By decision dated February 1, 1999, the Office of Workers' Compensation Programs denied appellant's claim. The Office found that the evidence established that the claimed incident on November 19, 1998 occurred but that the medical evidence did not establish that appellant sustained an injury as a result of that work incident.⁶

In a disability certificate dated November 19, 1998, Dr. Lila Aflatooni noted that appellant had a history of a left knee injury which occurred eight years earlier. She indicated that he would be disabled for two weeks. However, Dr. Aflatooni did not provide a diagnosis of the condition or opine that the condition was causally related to appellant's employment. Therefore, this disability certificate is not sufficient to establish that appellant sustained an injury to his left knee on November 19, 1998.

In a report dated November 30, 1998, Dr. Rolando P. Dulay, a general practitioner, related that appellant was walking down an uneven surface at work on November 19, 1998 and aggravated an old left knee injury. He made a tentative diagnosis of a left knee strain. However, he failed to provide any medical rationale explaining how appellant's condition was causally related to the work incident on November 19, 1998. Therefore, this report is not sufficient to discharge appellant's burden of proof.

The decision of the Office of Workers' Compensation Programs dated February 1, 1999 is affirmed.

Dated, Washington, DC
December 14, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Valerie D. Evans-Harrell
Alternate Member

⁶ The Board notes that this case record contains additional evidence, which was not before the Office at the time it issued its February 1, 1999 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).