

	)	
<b>EVA R. TRAVIS, Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 03-932</b>
	)	<b>Issued: February 6, 2004</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Cleveland, OH, Employer</b>	)	
	)	

*Case Submitted on the Record*

Before:  
DAVID S. GERSON, Alternate Member  
WILLIE T.C. THOMAS, Alternate Member  
A. PETER KANJORSKI, Alternate Member

On February 24, 2003 appellant filed a timely appeal from an Office of Workers' Compensation Programs' decision dated December 5, 2002, which denied her claim for a recurrence of disability causally related to her employment injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case and also the Office decision dated March 27, 2002.

The issue is whether appellant sustained a recurrence of disability on August 18 or November 29, 2001 causally related to her January 26, 1988 employment injury.

## **FACTUAL HISTORY**

This case was previously before the Board. By decision dated May 15, 2000,<sup>1</sup> the Board affirmed the Office's July 15, 1998 decision denying appellant's claim for a recurrence of disability on March 22, 1997 causally related to her January 26, 1988 employment injury. The facts and circumstances of the case up to that point are set forth in the Board's prior decision and are incorporated herein by reference.

In a report dated April 17, 1999, Dr. James Walker, an orthopedic surgeon, diagnosed a right knee meniscal tear.<sup>2</sup> On November 8, 1999 Dr. John Wood, an orthopedic surgeon, examined appellant and diagnosed a torn right lateral meniscus. The Office asked appellant to provide reports from the physicians explaining how the torn meniscus was related to her January 26, 1988 employment injury but no reports were submitted.

On April 24, 2001 appellant filed a claim for a recurrence of disability on April 23, 2001 causally related to her January 26, 1988 employment-related right knee injury. She submitted no medical evidence in support of her claim.

By decision dated July 19, 2001, the Office denied appellant's claim for a recurrence of disability on April 23, 2001 on the grounds that the evidence of record did not establish that her recurrence was causally related to her January 26, 1988 employment injury.

In form reports dated August 10 and September 12, 2001, Dr. Thomas L. Craig, III, appellant's attending internist, diagnosed a strain and chondromalacia of the right knee. In form reports dated August 17 and September 10, 2001, he diagnosed chondromalacia of the right patella (knee) and indicated that appellant was disabled until September 10, 2001.

On October 12, 2001 appellant filed a claim for lost wages commencing on August 18, 2001. On December 1, 2001 she filed a claim for a recurrence of disability on November 29, 2001 causally related to her January 26, 1988 employment injury.

Appellant requested a hearing that was held on November 28, 2001. By decision dated February 20, 2002 and finalized February 21, 2002, an Office hearing representative remanded the case for further development on the issue of whether appellant sustained a recurrence of disability on August 18 or November 29, 2001 causally related to her January 26, 1988

---

<sup>1</sup> Docket No. 98-2503 (issued May 15, 2000). On January 26, 1988 appellant, then a 36-year-old letter carrier, filed a claim for an injury on that date when she slipped and fell on snow-covered steps. The Office accepted her claim for contusion and laceration of the right knee. Appellant's claim was later expanded to include an episode of irregular menstrual bleeding, chondromalacia (softening of the articular cartilage) of the right knee and traumatic arthritis of the right knee. The Office accepted appellant's claims for recurrences of disability on October 16, 1992, November 15, 1993, February 18, 1994, August 14, 1995 and January 22, 1996.

<sup>2</sup> A magnetic resonance imaging (MRI) scan of the right knee dated April 27, 1999 indicated a large meniscal tear.

employment injury. The hearing representative affirmed the Office's July 19, 2001 decision denying appellant's claim for a recurrence of disability on April 23, 2001.

By decision dated March 27, 2002, the Office denied appellant's claim for a recurrence of disability on or after August 18, 2001. She requested a hearing that was held on October 22, 2002. Appellant submitted additional evidence in support of her claim.

In a report dated October 29, 2002, Dr. Craig stated that he treated appellant for chronic right knee pain due to her January 26, 1988 employment injury. He stated that an MRI scan of the right knee revealed chondromalacia. Dr. Craig stated:

"[Appellant's] diagnoses are [c]hondromalacia [r]ight [k]nee of the medial and lateral facets of the patella, severe chondrosis lateral tibial plateau. This opinion is based on history and clinical presentation of chronic pain subsequent to an industrial injury. The chondromalacia represents changes (*i.e.* calcifications) seen secondary to chronic inflammation, which is a result of injury. This phenomenon aggravates and accelerates degenerative changes that also will be observed and precipitate the chronic pain syndrome. Due to accommodation the contralateral knee also eventually will ... demonstrate these changes.

"I feel with a reasonable medical certainty that [appellant's] conditions are a result of the injury delineated above. She will experience chronic pain and discomfort...."

By decision dated and finalized December 5, 2002, an Office hearing representative affirmed the Office's March 27, 2002 decision on the grounds that the evidence of record did not establish that appellant's claimed recurrences of disability on August 18 and November 29, 2001 were causally related to her January 26, 1988 employment injury.<sup>3</sup>

### **LEGAL PRECEDENT**

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.<sup>4</sup> 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

---

<sup>3</sup> The record contains evidence submitted subsequent to the Office's December 5, 2002 decision. However, the jurisdiction of the Board is limited to the evidence that was before the Board at the time it issued its final decision. See 20 C.F.R. § 501.2(c).

<sup>4</sup> *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

conclusion with sound medical rationale.<sup>5</sup> Where no such rationale is present, medical evidence is of diminished probative value.<sup>6</sup>

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 her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.<sup>7</sup> In order to establish causal relationship, a physician's opinion must be based on a complete factual and medical background, 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 activities.<sup>8</sup>

### **ANALYSIS**

In reports dated April 17 and November 8, 1999, Drs. Walker and Wood, orthopedic surgeons, diagnosed a right knee meniscal tear. The Office asked appellant to provide reports from the physicians explaining how the torn meniscus was related to her January 26, 1988 employment injury but no reports were submitted. As noted above, in order to establish causal relationship, there must be a physician's rationalized medical opinion explaining the nature of the relationship between the diagnosed condition and the specific employment activities. In the absence of such medical evidence, appellant's right knee meniscal tear is not established as being causally related to her January 26, 1988 employment injury.

In form reports dated August 10 and September 12, 2001, Dr. Craig, appellant's attending internist, diagnosed a strain and chondromalacia of the right knee. In form reports dated August 17 and September 10, 2001, Dr. Craig diagnosed chondromalacia of the right patella and indicated that appellant was disabled until September 10, 2001. He checked boxes indicating that appellant's condition was due to the January 26, 1988 injury. However, the Board has held that an opinion on causal relationship which consists only of checking "yes" to a form report question on whether the claimant's disability was related to the history given is of little probative value.<sup>9</sup> Without any explanation or rationale, such a report is insufficient to establish causal relationship.<sup>10</sup> Due to this deficiency, these reports are not sufficient to establish that appellant sustained a recurrence of disability causally related to her January 26, 1988 employment injury.

In a report dated October 29, 2002, Dr. Craig diagnosed chondromalacia of the right knee, in the medial and lateral facets of the patella and severe chondrosis of the lateral tibial

---

<sup>5</sup> *Lourdes Davila*, 45 ECAB 139 (1993); *Mary S. Brock*, 40 ECAB 461 (1989).

<sup>6</sup> *Michael Stockert*, 39 ECAB 1186 (1988).

<sup>7</sup> *Walter D. Morehead*, 31 ECAB 188 (1986).

<sup>8</sup> *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>9</sup> *Debra S. King*, 44 ECAB 203 (1992); *Donald W. Long*, 41 ECAB 142 (1989).

<sup>10</sup> *Id.*

plateau as demonstrated by the MRI scans. He concluded that, with a reasonable medical certainty, appellant's condition was due to her employment injury and stated:

"This opinion is based on history and clinical presentation of chronic pain subsequent to an industrial injury. The chondromalacia represents changes (*i.e.* calcifications) seen secondary to chronic inflammation, which is a result of injury. This phenomenon aggravates and accelerates degenerative changes that also will be observed and precipitate the chronic pain syndrome. Due to accommodation the contralateral knee also eventually will ... demonstrate these changes."

However, Dr. Craig did not mention the dates of recurrent disability claimed by appellant, August 18 and November 29, 2001. He did not describe appellant's January 26, 1988 work injury in any detail or explain the medical process through which it would have been competent to cause her deteriorating knee condition in mid 2001 or the disability that was claimed to have occurred years after the work injury.<sup>11</sup> Therefore, this report is not sufficiently well rationalized to establish that appellant sustained a recurrence of disability on August 18 and November 29, 2001 causally related to her January 26, 1988 employment injury.

### **CONCLUSION**

Appellant failed to submit rationalized medical evidence establishing that her claimed recurrences of disability on August 18 and November 29, 2001 were causally related to the January 26, 1988 employment injury. Therefore, the Office properly denied her claim for compensation.

---

<sup>11</sup> See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated December 5 and March 27, 2002 are affirmed.

Issued: February 6, 2004  
Washington, DC

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member