

**United States Department of Labor
Employees' Compensation Appeals Board**

W.W., Appellant

and

U.S. POSTAL SERVICE,
Aurora, CO, Employer

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**Docket No. 07-1938
Issued: December 28, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 17, 2007 appellant filed a timely appeal from a May 15, 2007 merit decision of the Office of Workers' Compensation Programs which denied his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of his claim.

ISSUE

The issue is whether appellant established that he sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On December 28, 2005 appellant filed an occupational disease claim alleging that he sustained pain in both hips and knees and swelling in both knees and lower legs as a result of being on his feet for 8 to 12 hours a day. On January 25, 2006 the Office informed appellant that additional information was needed to support his claim. No response was received.

In a February 28, 2006 decision, the Office denied appellant's claim on the grounds that there was no evidence to establish that the work exposure occurred as alleged or medical evidence of a diagnosis connected to the claimed events.

On January 22, 2007 appellant requested reconsideration. He alleged that he saw a chiropractor who diagnosed subluxation of the spine. Appellant had also been examined by an orthopedic surgeon who diagnosed bone spurs of the right shoulder and scheduled surgery for February 21, 2007. In a January 13, 2006 unsigned note, Dr. Dennis Genereux, an internist, stated that appellant received treatment that day and was unable to work on January 13, 2006 but could return to work on the January 14, 2006 without restrictions. A January 13, 2006 unsigned office visit note from Dr. Genereux, diagnosed osteoarthritis. Appellant believed his condition had worsened due to long hours worked through the holidays.

In a February 21, 2006 letter, appellant stated that he began experiencing pain in both knees and hips on November 1, 2005. He claimed that he was required to work 8 to 12-hour shifts, with increased mail volume which caused his pain to worsen. In a March 13, 2006 letter, he stated that he also experienced pain in his right shoulder and shooting pain from his shoulder to his neck. Appellant noted that he was on light duty from March 19 through September 10, 2004 and not allowed to lift no more than 5 pounds; however, he did occasionally lift up to 15 pounds.

In a May 15, 2007 merit decision, the Office denied appellant's claim finding that the medical evidence failed to establish that he sustained a medical condition in connection with his federal employment.

LEGAL PRECEDENT

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

The medical opinion needed to establish an occupational disease claim 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.²

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the condition and employment. Neither the fact that the condition became apparent during a period of employment, nor

¹ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB ____ (Docket No. 05-715, issued October 6, 2005).

² *Donald W. Wenzel*, 56 ECAB ____ (Docket No. 05-146, issued March 17, 2005).

employee's belief that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relationship.³

ANALYSIS

Appellant attributed his hip and knee conditions to factors of his federal employment beginning on November 1, 2005. The Board finds that he has submitted insufficient medical evidence to establish that his conditions were caused or aggravated by his federal employment.

Appellant identified the employment factors of standing on his feet 8 to 12 hours, as having caused or contributed to his conditions. The Office accepted that he stood on his feet as part of his duties. The medical evidence of record does not establish the existence of a disease or condition sustained by appellant in the performance of duty. The January 13, 2006 office visit note, presumably from Dr. Genereux, diagnosed osteoarthritis. However, as the note was not signed it cannot be determined to be from Dr. Genereux and is not considered to be a physician's opinion. Unsigned doctor's reports are of diminished probative value.⁴ Moreover, none of the reports contain a physician's opinion as to the cause of appellant's condition. Evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁵ Appellant bears the burden to submit probative medical evidence to establish a diagnosed condition causally related to his federal employment. He has not met his burden of proof.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

³ *Alberta S. Williamson*, 47 ECAB 569 (1996).

⁴ *Merton J. Sills*, 39 ECAB 572 (1988).

⁵ *Michael E. Smith*, 50 ECAB 313 (1999).

ORDER

IT IS HEREBY ORDERED THAT the May 15, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 28, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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