

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH HACKMAN and U.S. POSTAL SERVICE,
POST OFFICE, Elmont, N.Y.

*Docket No. 97-1115; Submitted on the Record;
Issued December 9, 1998*

DECISION and ORDER

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

The issue is whether appellant sustained an injury to his right knee in the performance of duty on January 18, 1996.

In this case, appellant, a 49-year-old distribution clerk, initially filed a claim for recurrence of disability on January 19, 1996 alleging that on January 18, 1996 he sustained a recurrence of disability based on an original injury of August 17, 1992. In the section of the form reserved for appellant's description of his recurrence of disability, he noted that he had fallen in August 1994 and that his right knee was painful and intermittently swollen as a result.

In a medical report dated January 19, 1996, Dr. Fredric Cogan, appellant's treating physician and a general practitioner, noted that appellant had had a right knee injury two years earlier, and that he had traumatic arthritis, calcific bursitis and degenerative joint disease. In a medical report dated February 1, 1996, Dr. Cogan noted normal results from a right knee examination except for local swelling, that he lacked 20 degrees of full range of motion, and that his right knee bursitis had resolved. He released appellant to duty with a restriction against knee bending. In a March 26, 1996 narrative, appellant stated that on January 18, 1996 he "pivoted to throw a parcel and experienced a sharp pain in my right knee. *** My knee was swollen and tender to the touch." Appellant added that he had had no previous knee problems until August 1992 from which time he had intermittent pain and swelling.

Based on appellant's description of his injury, the Office of Workers' Compensation Programs, in an undated memorandum for the file, noted that appellant's claim for recurrence of disability was to be considered a claim for a new injury. On June 4, 1996 the Office notified appellant that he was required to submit additional information regarding his claim for compensation for traumatic injury alleged to have occurred on January 18, 1996 including a comprehensive medical report from his treating physician noting the cause of appellant's condition and how the doctor believed that his condition was caused by appellant's employment.

On July 8, 1996 the Office, in a decision, denied appellant's claim on the grounds that he failed to submit medical evidence that established a causal relationship between his medical condition and his alleged work-related incident.

On July 15, 1996 appellant filed a request for reconsideration stating that he had originally injured his knee on August 17, 1992, when he stumbled on a plastic strap and fell on his right knee.

On August 27, 1996 the Office, in a merit decision, denied appellant's claim. On September 19, 1996 appellant filed a request for reconsideration and submitted x-rays taken on January 19, 1996. Appellant also noted that he had incorrectly identified the date of his initial injury to Dr. Cogan, stating that he was injured in 1994 when the correct date of the injury was 1992. Appellant stated that Dr. Cogan's diagnoses of traumatic arthritis, calcific bursitis and degenerative joint disease were attributable to his August 1992 work-related injury.

On November 20, 1996 the Office medical adviser reviewed appellant's x-rays and stated that they revealed a chronic problem but that they "could not be attributable to injury of January 18, 1996."

On December 17, 1996 the Office, in a merit decision, denied appellant's request for reconsideration on the grounds that appellant failed to establish a causal relationship between his medical condition and the alleged incident.

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

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In this case, appellant failed to submit a rationalized medical opinion establishing that the alleged incident on January 18, 1996 caused a medical condition for which he would be entitled to receive compensation. Neither of Dr. Cogan's medical reports established that appellant had sustained an injury on January 18, 1996, and appellant's x-rays were read by the Office medical adviser as revealing a chronic knee condition which was not attributable to an alleged incident on January 18, 1996.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989); *see also Daniel R. Hickman*, 34 ECAB 1220 (1983).

³ *Daniel J. Overfield*, 42 ECAB 718 (1991).

Because he has not submitted any rationalized medical opinion evidence necessary to show causal relationship, the Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty on or about January 18, 1996.

The December 17, August 27 and July 8, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
December 9, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member