

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA EVANS and U.S. POSTAL SERVICE,
POST OFFICE, Dallas, TX

*Docket No. 00-825; Submitted on the Record;
Issued March 16, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish that she sustained a left knee injury in the performance of duty.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not satisfied her burden of proof to establish that she was injured in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of 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 compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In an occupational disease claim, it must be established that a condition was sustained in the performance of duty by submitting 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 employment factors identified by the claimant were the proximate cause of the condition for

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ronald K. White*, 37 ECAB 176, 178 (1985).

which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

The medical evidence required to establish a causal relationship between the occupational disease or condition and the identified employment factors is, generally, rationalized medical opinion evidence.⁵ The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.⁶

In this case, on May 6, 1998 appellant, then a 40-year-old letter sorting machine operator, filed an occupational disease claim alleging that she sustained left knee pain in December 1994.⁷ She stated that from 1984 through 1994 both of her knees “popped” when she picked up mail trays. Appellant further stated that in 1997 her left knee popped when she sat down and picked up a piece of paper and she experienced aching pain when she stood up. She asserted that she is hearing impaired and that she did not understand claim filing procedures or how to get help from a translator.

On the reverse side of the claim form, appellant’s supervisor noted that appellant first received medical care in October 1994 from Dr. Jerry F. Gurkoff, an osteopath. Her supervisor also noted that she did not receive notice of appellant’s claim. In an attached statement, appellant’s supervisor asserted that appellant alleged that she did not recall the date of her injury and her claim was untimely because she was hearing impaired and did not understand claim filing procedures as translators were unavailable. Her supervisor described appellant’s job duties.

To support her claim, appellant submitted diagrams of a collapsible general purpose mail container and a letter sorting machine with appellant’s notations stating that she hit her knee on the bottom of the container and operator console assembly between 1990 and 1993. She also submitted a duty status report dated March 26, 1998 in which a physician whose signature is illegible noted appellant’s continuous and intermittent activity restrictions.

Appellant further submitted medical evidence concerning an unrelated claim assigned to File No. 160254930.

By letter dated February 2, 1999, the Office of Workers’ Compensation Programs advised appellant that the factual and medical evidence was insufficient to support her claim and it allowed her 30 days within which to submit additional information.

⁴ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ *Id.*

⁶ *Thomas L. Hogan*, 47 ECAB 323, 329 (1996).

⁷ In an undated statement date-stamped received June 10, 1998, the employing establishment stated that, for two years prior to filing her claim, appellant performed administrative and clerical duties in the “nixie section,” medical unit and the postal inspection service.

By decision dated July 27, 1999, the Office denied appellant's claim on the grounds that the evidence of record was insufficient to establish that she sustained an injury resulting from factors of her federal employment. The Office accepted that appellant actually experienced the alleged employment factors but further found that the evidence did not show that she sustained a diagnosed injury related to her federal employment.

By letter dated August 4, 1999, appellant requested reconsideration of the Office's July 27, 1999 decision denying her claim. To support her request, appellant submitted a magnetic resonance imaging report dated September 30, 1997 in which Dr. J. Gordon Gregory stated:

"Findings most likely correlate with an anterior cruciate tear at the origin of the anterior cruciate. This most likely will represent a partial tear and clinical correlation is advised."

Appellant also submitted a report dated May 15, 1998, in which Dr. Gurkoff stated that appellant injured her left knee in 1997 when she bent over and her knee popped. He diagnosed a meniscal tear, an insufficient anterior cruciate ligament, musculoskeletal lower back pain and shoulder strain. Dr. Gurkoff stated that appellant's treatment consisted of left knee reconstruction, symptomatic support and physical therapy for her back and shoulder.

Appellant further submitted a statement dated February 20, 1999, in which she described her symptoms and medical treatment.

Additionally, appellant submitted previously submitted diagrams of a collapsible general purpose mail container and a letter sorting machine with appellant's notations stating that she hit her knee on the bottom of the container and operator console assembly.

Appellant also submitted a statement dated September 19, 1997 from Mattie Carlin, her coworker. Ms. Carlin stated: "When [appellant] would squat down to sit on the stool to get to the bottom drawers [of the filing cabinet], I could hear a loud 'pop' from her left knee. I told her I could hear it and she said it hurt when she stood back up."

By merit decision dated October 18, 1999, the Office denied appellant's request on the grounds that the evidence of record did not support modification of its prior decision.

The only evidence of record which contains an opinion on whether there is a causal relationship between appellant's diagnosed conditions and her employment activities is Dr. Gurkoff's May 15, 1998 report. Dr. Gurkoff concluded that appellant injured her left knee in 1997 when she bent over and her knee popped. He diagnosed a meniscal tear, insufficient anterior cruciate ligament, musculoskeletal lower back pain and shoulder strain. Dr. Gurkoff, however, failed to provide a rationalized medical opinion supporting his conclusion that appellant's left knee condition related to factors of her employment. As the medical evidence of record is not sufficiently rationalized to support a causal relationship between the work factors identified by appellant and her diagnosed left knee condition, the Board finds that she has not met her burden of proof to establish an injury in the performance of duty as alleged.

The decisions of the Office of Workers' Compensation Programs dated October 18 and July 27, 1999 are hereby affirmed.

Dated, Washington, DC
March 16, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member