

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTONIO B. GRANILLO and DEPARTMENT OF THE ARMY,
WHITE SANDS MISSILE RANGE, NM

*Docket No. 02-600; Submitted on the Record;
Issued July 18, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
DAVID S. GERSON

The issue is whether the effects of appellant's May 22, 1998 employment injury resolved by June 22, 1998.

On August 11, 2000 appellant, then a 52-year-old electronics technician, filed a claim for a traumatic injury to his right knee sustained on May 22, 1998 when he bumped his knee against a launch vehicle he was entering.¹ In a letter dated July 25, 2000, appellant stated that he was "on leave for work-related injury" from May 26 to June 1, 1998, and that the sick leave he used from June 8 to 23, 1998 for a recurrence of injury should have been covered by continuation of pay.

By decision dated September 21, 2000, the Office of Workers' Compensation Programs found that the evidence supported that appellant experienced the claimed accident, but that the evidence did not establish that a condition had been diagnosed in connection with the accident. The Office determined that appellant had not demonstrated an injury within the meaning of the Federal Employees' Compensation Act.

By letter received October 10, 2000, appellant requested reconsideration and submitted additional medical evidence.

By decision dated December 14, 2000, the Office accepted that on May 22, 1998 appellant sustained an effusion of the right knee that resolved by June 22, 1998.

By letter dated March 9, 2001, appellant stated that he disagreed with the Office's December 14, 2000 decision for the reason that, since the date of injury, his right knee had been getting worse even with excessive medication. By letter dated April 3, 2001, appellant requested reconsideration, and submitted additional medical evidence.

¹ Appellant also submitted a claim for this injury dated June 2, 1998, which he indicated was a copy of a claim he filed on that date.

By decision dated May 11, 2001, the Office found that the additional evidence was not sufficient to warrant modification of its prior decision.

By letter dated August 20, 2001, appellant requested reconsideration, and submitted an additional medical report.

By decision dated November 28, 2001, the Office found that the additional medical evidence was not sufficient to modify its prior decision that appellant had no residuals of his May 22, 1998 employment injury.

The Board finds that the effects of appellant's May 22, 1998 employment injury resolved by June 22, 1998.

Appellant had a preexisting gouty condition of his right knee. In a report dated June 1, 1998, Dr. Alan C. Davis set forth a history that appellant "bumped it [his right knee] against the missile launcher where he works at White Sands. It seems to trigger a gouty fluid in both knees. He has had this in the past. He claims he averages about four effusion a year requiring arthrocentesis or removal of the fluid." Dr. Davis removed fluid from appellant's right knee on June 1, 1998, and noted that appellant "had good relief of pain."

In a report dated June 1, 1998, Dr. Gregory Johnson noted that appellant had a large effusion and was walking with crutches; Dr. Johnson diagnosed "gout flare possibly started by blunt trauma on job." In a report dated June 22, 1998, Dr. Johnson noted that appellant's knee was injected with steroids on June 11, 1998 and that his swelling or effusion resolved by June 14, 1998. Dr. Johnson noted that appellant had a full range of knee motion with pain upon full extension, diagnosed resolving gout, and indicated appellant could return to work, using kneepads to crawl on equipment.

Dr. Johnson's June 22, 1998 report is sufficient to show that the effects of appellant's May 22, 1998 employment injury ended by June 22, 1998. A June 26, 1998 report from Dr. Harry Bass does not contradict this conclusion, as this report states both that appellant was unable to perform his duties and that he should be able to return to his duties, both "pending recovery." This report does not clearly indicate whether appellant is disabled, and does not attribute his disability, if there was any after June 22, 1998, to his May 22, 1998 employment injury.

None of the medical evidence after June 22, 1998 attributes appellant's condition or disability to his May 22, 1998 employment injury. In a July 21, 1998 report, Dr. Johnson stated that appellant had a recurrence of pain in his right knee, but stated, "This is a spontaneous exacerbation." In a report dated July 21, 1999, Dr. Christopher L. Wathier diagnosed degenerative joint disease and recurrent gouty arthritis of the knees, stated that these are "chronic, progressive conditions which will continue to be aggravated by duties as an electronics technician," and recommended reassignment to sedentary work.

The reports from Dr. Edward R. Sweetser that appellant submitted with his requests for reconsideration also do not attribute appellant's condition or disability after June 22, 1998 to his May 22, 1998 employment injury. His December 16, 1999 report on an Office form set forth a history of "intermittent bilateral knee pain from work-related injuries," but left blank the space

for date of injury. Dr. Sweetser's March 20, 2001 report stated that work activities appear to be aggravating the pain in appellant's knee. His July 31, 2001 report noted knee injuries at work in August 1998 and on February 14 and June 6, 1999, and concluded, "It is my opinion that these injuries contributed directly to the problems related to his right knee for which you have received all prior information. I believe that these injuries were repetitive in nature and that the accumulation of these injuries contributed to the symptomatology for which he needs surgery." These reports do not show any disability or medical condition after June 22, 1998 related to appellant's May 22, 1998 employment injury.

The November 28 and May 11, 2001 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
July 18, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

David S. Gerson
Alternate Member