

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RODNEY M. HEDRICK and U.S. POSTAL SERVICE,
MARYVALE STATION, Phoenix, AZ

*Docket No. 03-1918; Submitted on the Record;
Issued February 9, 2004*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has established that he sustained a recurrence of disability causally related to his December 9, 1987 employment injury.

On May 14, 2002 appellant, then a 60-year-old maintenance mechanic, filed an occupational disease claim alleging that on January 1, 1988 he first realized that his bilateral knee condition was caused by factors of his employment. Appellant stated that two pit bulls attacked both of his knees, which knocked him down. He submitted employment records in support of his claim.

By letter dated May 31, 2002, the Office of Workers' Compensation Programs advised appellant that his claim may be untimely filed pursuant to 5 U.S.C. § 8122. The Office further advised him that the evidence submitted was insufficient to establish his claim because no medical evidence had been submitted. The Office noted that appellant's case file record assigned number 13-0843961 regarding a left knee strain that he sustained on December 9, 1987 had been requested to determine whether it was related to his May 14, 2002 claim. The Office requested that he submit factual and medical evidence supportive of his claim.

In a June 5, 2002 response letter, appellant stated that he injured his left knee on December 9, 1987 and that it had not gotten any better. He noted his lifestyle subsequent to the injury and the medical treatment that he received. The Office received medical evidence regarding appellant's right and left knee conditions. In an undated letter received by the Office on July 23, 2002, he reiterated that his knee never got better.

By decision dated July 25, 2002, the Office denied appellant's claim on the grounds that it was not timely filed. The Office noted that it reviewed the case of his assigned number 13-0843961, which involved a pit bull and took place on December 9, 1987. The Office had accepted this claim for a left knee strain. Appellant did not lose any time from work, the injury resolved and he returned to full-duty work on December 21, 1987.

In a July 31, 2002 letter, appellant requested an oral hearing before an Office hearing representative. Subsequently, the Office received medical evidence concerning appellant's right and left knee conditions.

At the February 19, 2003 hearing, appellant testified that he was attacked by two dogs on December 9, 1987. He further testified at a prehearing conference that he stated that he probably put the wrong date, January 1, 1988, on his present claim form.

In a May 9, 2003 decision, an Office hearing representative found that the Office's July 25, 2002 decision "should be affirmed as the claimant now attributes his current condition to a previous injury occurring on December 9, 1987, which has been accepted under case number 13-843961." The Office hearing representative stated that if appellant wished to pursue a recurrence of disability claim he should file a Form CA-2a through the employing establishment and reference the above noted claim number.

By letter dated May 23, 2003, appellant requested reconsideration. He contended that his current knee condition and surgery were caused by his 1987 employment injury. Appellant submitted medical evidence in support of his request for reconsideration regarding his right and left knee conditions.

By decision dated July 11, 2003, the Office denied modification of the May 9, 2003 decision. The Office found the medical evidence of record insufficient to establish a causal relationship between appellant's current knee condition and the December 9, 1987 employment injury.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability causally related to his December 9, 1987 employment injury.

A person 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 he claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish 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 conclusion with sound medical reasoning.¹

Appellant submitted several medical reports and treatment notes from Dr. Charles M. Creasman, a Board-certified orthopedic surgeon and his treating physician. In a May 17, 2002 report, Dr. Creasman provided a history that both of appellant's knees were injured, when he was hit by two pit bulls while in the performance of duty. He noted appellant's symptoms and found that appellant had a significant meniscus tear of the right knee. Dr. Creasman recommended that appellant undergo an arthroscopic evaluation. He stated that appellant would be able to return to work within a week or so with certain physical restrictions. Dr. Creasman noted that appellant may require a short course of physical therapy to regain full strength and mobility. He concluded that appellant could work with his restrictions until he was able to have the

¹ *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

arthroscopic evaluation performed. Dr. Creasman described the arthroscopic surgery performed on appellant's right knee in his June 11, 2002 report. His August 9, 2002 treatment notes revealed that appellant had a medial meniscus tear of the left knee. In an attending physician's report of the same date, Dr. Creasman noted that in 1988, appellant injured his left knee in a collision with a pit bull and sustained a medial meniscus tear. The Board finds that Dr. Creasman's reports and treatment notes are insufficient to establish appellant's burden because they failed to address whether appellant's current bilateral knee conditions were caused by the accepted December 9, 1987 employment injury.

Dr. Creasman's June 21, 2002 treatment notes revealed that appellant's right knee was doing quite well and that he was having more symptoms in his left knee, which appellant related to a 1987 work-related injury. He further stated that appellant's left knee had some medial joint line tenderness and a positive McMurray's, which suggested a meniscal tear. Although he noted appellant's opinion regarding causal relationship, he did not opine that appellant's left knee condition was caused by the December 9, 1987 employment injury. Thus, Dr. Creasman's treatment notes are insufficient to establish appellant's claim.

In an August 16, 2002 attending physician's report, Dr. Creasman provided a history that appellant experienced pain in both knees, when he twisted his knee while coming down a ladder. He found that appellant had a medial meniscus tear of both knees. Dr. Creasman indicated that appellant's condition was caused by or aggravated by an employment activity by placing a checkmark in the box marked "yes." The Board has held that an opinion on causal relationship, which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history, is of diminished probative value. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship.² Dr. Creasman's report did not provide any medical rationale explaining how or why appellant's diagnosed condition was caused by an accepted employment factor such as, the December 9, 1987 employment injury. Thus, his report is insufficient to establish appellant's burden.

A May 15, 2002 report from MBI Industrial Medicine East, noted appellant's complaint of left knee pain that was either due to a 1988 dog attack or doing squat jumps in the military. The report also noted intermittent pain in the right knee. The results of a magnetic resonance imaging (MRI) scan demonstrated a bilateral buckle tear of the medial meniscus of the right knee and effusion. An MRI scan of the left knee revealed pain. The report failed to address whether appellant's bilateral knee conditions were caused by the December 9, 1987 employment injury and, thus, it insufficient to satisfy appellant's burden.

A July 7, 2002 report from MBI revealed that appellant had a medial meniscus tear of the left knee. A July 1, 2002 MRI scan from Dr. William N. Snearly, a radiologist, indicated that appellant had a medial meniscus tear, Grade III chondromalacia at the medial aspect of the medial femoral condyle and a small popliteal cyst of the left knee. As the reports from MBI and Dr. Snearly failed to address whether appellant's conditions were caused by the December 9, 1987 employment injury, they are insufficient to establish appellant's burden.

² *Lucrecia M. Nielson*, 42 ECAB 583, 594 (1991).

A May 15, 2002 x-ray report of Dr. Justin F. Weiss revealed no evidence of a fracture in appellant's left knee. His report does not address whether appellant sustained a knee condition caused by the December 9, 1987 employment. Therefore, it does not satisfy appellant's burden.

The October 22, 2002 disability certificate from Dr. Raymond P. Roffi, a Board-certified orthopedic surgeon, indicated that appellant was disabled from August 29 until November 19, 2002, due to a medial meniscus tear of the left knee. His disability certificates failed to discuss whether or how the diagnosed condition was caused by appellant's December 9, 1987 employment-related injury.³

Dr. Roffi's September 24, October 10 and November 22, 2002 disability certificates revealed that appellant underwent knee surgery and that his condition began in December 1987. He stated that appellant was disabled from September 18 through December 10, 2002. However, Dr. Roffi did not provide a diagnosis and discuss whether or how the diagnosed condition was caused by appellant's December 9, 1987 employment-related injury.⁴ Thus, his disability certificates do not satisfy appellant's burden of proof.

Inasmuch as appellant has failed to submit rationalized medical evidence establishing that he sustained a bilateral knee condition causally related to the December 9, 1987 employment injury, the Board finds that he has failed to satisfy his burden of proof in this case.

³ *Daniel Deparini*, 44 ECAB 657, 659 (1993).

⁴ *Id.*

The July 11 and May 9, 2003 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
February 9, 2004

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member