

On March 23, 2004 appellant, then a 43-year-old limited-duty city carrier, filed a claim (Form CA-2a), alleging that she sustained a recurrence of disability under Office File

No. 020676033.<sup>1</sup> She stated that following her original knee injury, she returned to a rehabilitated job which required her to carry mail and perform mounted deliveries. Appellant noted that she experienced pain from the beginning and tried to deal with it but over time the pain worsened. She stopped work on February 24, 2004.

In support of her claim, appellant submitted a claim for compensation (Form CA-7), dated February 27, 2004 and correspondence from the employing establishment regarding her acceptance on November 4, 2002 of its offer of the limited-duty city carrier position which became effective November 1, 2002. She also submitted an October 16, 2002 treatment note of Dr. Thomas J. Nordstrom, appellant's attending Board-certified orthopedic surgeon, who stated that he had treated her for a number of years and that he had not seen her since December 2001. He noted her complaints of significant bilateral knee pain and pain from her left hip down to her foot and ankle. Dr. Nordstrom indicated that appellant was fired from the employing establishment four months ago but she was allowed to return to work and he needed to complete a form providing specific details about her ability to work. On physical examination he reported some punch tenderness in her back and good hip motion. He found that her knees were basically unchanged and that she had chondromalacia type pain in both knees. Dr. Nordstrom stated that appellant was tender along the medial joint line and she had ankle pain and plantar fasciitis on the left foot.

Dr. Nordstrom's February 23, 2004 disability certificate indicated that appellant would be able to perform light-duty work on February 25, 2004 and that she was not allowed to deliver mail by walking or driving. She could only walk inside. Dr. Nordstrom diagnosed chondromalacia patella, left knee pain and osteochondritis.

In a March 2, 2004 attending physician's report, Dr. Nordstrom noted a history that appellant sustained an injury on February 10, 1994 and that she experienced continued knee pain. He diagnosed internal derangement of the knee and indicated with an affirmative mark that appellant's condition was caused or aggravated by an employment activity. Dr. Nordstrom also indicated that she underwent arthroscopic surgery on her left knee on November 10, 1997 and that she required permanent light-duty work.

The employing establishment controverted appellant's claim on the grounds that on February 24, 2004 she was disabled due to a headache as reported by her physician. The employing establishment noted that she presented a note from her physician dated February 23, 2004 and appellant refused to perform the rehabilitation job due to restrictions resulting from osteochondritis, which was not related to the "compensable injury." The employing establishment submitted a March 31, 2004 letter from Elizabeth O'Harrah, appellant's supervisor, in which she stated that on February 24, 2004 appellant submitted a note from her physician indicating that she could no longer complete the street duties of her rehabilitation job. Ms. O'Harrah noted that she gave her a CA-2a form to be completed by her physician and a CA-7 form based on her request.

---

<sup>1</sup> Appellant indicated that her original injury involved both knees which she hurt while in the performance of her work duties. The record reveals that she sustained this injury on February 10, 1994. It does not indicate whether the Office accepted her claim for her knee injuries.

By letter dated April 6, 2004, the Office advised appellant that her claim would be adjudicated as a new occupational disease claim and that she would receive a new claim number; Office File No. 022052138. In an April 8, 2004 letter, the Office advised her that the evidence submitted was insufficient to establish her claim and to submit additional factual and medical evidence to establish her claim. By letter of the same date, the Office requested that the employing establishment provide information regarding appellant's allegations and work duties and the precautions it took to minimize the effects of her activities.

In response to the Office's April 6, 2004 letter, appellant submitted an April 15, 2004 letter in which she stated that the work-related activities she believed contributed to her knee condition were excessive standing and driving. She noted that she performed these activities everyday for eight hours. Appellant also noted that at times the mail was very heavy and her request for help was denied. She stated that previous supervisors helped her but Ms. O'Harrah refused to do so. Appellant listed her activities outside of work which included piano lessons, banking on-line and rehearsing and singing with her church choir. She indicated that she always experienced pain while working and that it worsened over time. Appellant described her knee pain and noted the medications she took. She also described her 1994 injury which occurred when she fell on steps while delivering mail and hurt both knees. Appellant indicated that she sustained meniscus tears in both knees and underwent arthroscopic surgery on her left knee. She believed she might have arthritis in both knees.

In an April 20, 2004 letter, appellant provided additional information about pain in her knees and her physical limitations. She noted an upcoming appointment with Dr. Nordstrom and that he was working on the medical evidence requested by the Office.

Appellant submitted a description of her limited-duty position as a city carrier and the results of a November 27, 2002 functional capacity evaluation authorized by Dr. Nordstrom. The functional capacity evaluation provided a history that she sustained bilateral internal knee derangement in 1994 when she slipped on ice while delivering mail and that she underwent left knee arthroscopic surgery in November 1997. The functional capacity evaluation reported appellant's functional limitations and found that she did not meet the demands of a postal carrier but she did meet the demands of her limited-duty position.

In a May 3, 2004 memorandum, the employing establishment advised the Office that appellant had not returned to work or submitted additional medical evidence to its office. In an April 30, 2004 letter, Ms. O'Harrah advised the Office that she began supervising appellant in September 2003 and that appellant was assigned a six-to eight-hour route which consisted of two to two and one-half hours of office duties and four hours of street duties. She noted that appellant took about four hours to complete her office duties and she took frequent breaks and sat down when she became tired which were allowed due to her limited-duty status. Ms. O'Harrah specifically noted appellant's work duties and the time it took her to complete them. She stated that these duties were within appellant's job offer. Ms. O'Harrah related that in January 2004, appellant attempted more curbside deliveries instead of delivery to apartments, but she stated that one to two hours of sitting in the truck was no better than delivering to the apartments. She noted that on February 24, 2004 appellant informed her that she could no longer stand and case mail or complete any outside carrier duties due to her knee injury.

By decision dated May 11, 2004, the Office found that, although appellant actually experienced the claimed work activities or exposures as alleged, she failed to submit medical evidence in support of her claim that she sustained a diagnosed condition causally related to the implicated employment factors.<sup>2</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> 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.<sup>4</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

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 employment factors identified by the claimant were the proximate cause of the condition for 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. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.<sup>6</sup>

---

<sup>2</sup> Following the Office's May 11, 2004 decision, appellant submitted additional evidence. The Board may not consider evidence for the first time on appeal which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c). Appellant can submit this evidence to the Office and request reconsideration under 5 U.S.C. § 8128 and 20 C.F.R. § 10.606.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>6</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

## **ANALYSIS**

The Office accepted as factual that appellant worked in the limited-duty position of city carrier effective November 1, 2002 until she stopped work on February 24, 2004 which renders this an occupational disease claim as her exposure to employment factors occurred over more than one workday or shift.<sup>7</sup> The Board finds, however, that she submitted no rationalized medical evidence establishing that she sustained an injury causally related to the implicated factors of employment.

Dr. Nordstrom's treatment note which found that appellant had some punch tenderness in her back, good hip motion, chondromalacia type pain in her knees, ankle pain and plantar fasciitis of the left foot fails to address whether these conditions were caused by factors of her federal employment. Similarly, his disability certificate fails to address whether the diagnosed conditions of chondromalacia patella, left knee pain and osteochondritis were caused by factors of appellant's employment.<sup>8</sup> Further, Dr. Nordstrom's functional capacity evaluation found that she met the demands of her limited-duty position as a city carrier but he did not discuss whether appellant sustained a medical condition causally related to factors of her employment. Thus, the Board finds that Dr. Nordstrom's treatment note and disability certificate and the functional capacity evaluation are insufficient to establish appellant's burden of proof.

In an attending physician's report, Dr. Nordstrom indicated with an affirmative mark that appellant's internal derangement of the knee was caused or aggravated by her employment activities. This report does not provide any medical rationale explaining how or why her condition was caused by the implicated employment factors and, therefore, the report is insufficient to establish her claim. This type of report, without more by way of medical rationale explaining how the employment factors caused the injury is insufficient to establish causal relationship and is of diminished probative value.<sup>9</sup>

As there is no rationalized medical evidence of record establishing that appellant sustained a medical condition causally related to the implicated employment factors, she has failed to meet her burden of proof.

## **CONCLUSION**

The Board finds that appellant has failed to establish that she sustained an injury while in the performance of duty.

---

<sup>7</sup> See 20 C.F.R. § 10.5(q) which defines "occupational disease or illness." Cf. 20 C.F.R. § 10.5(ee) which defines "traumatic injury."

<sup>8</sup> *Daniel Deparini*, 44 ECAB 657, 659 (1993).

<sup>9</sup> See *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Lillian M. Jones*, 34 ECAB 379 (1982).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 5, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 4, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board