United States Department of Labor
Employees' Compensation Appeals Board

ALAN G. PETTY, Appellant	)	
and	)	**Docket No. 05-553**
	)	**Issued: July 12, 2005**
U.S. POSTAL SERVICE, OLNEY STATION, Philadelphia, PA, Employer	)	

Appearances:
Jeffrey P. Zeelander, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member

JURISDICTION

On January 3, 2005 appellant filed a timely appeal of a January 6, 2004 merit decision of the Office of Workers' Compensation Programs that found he had not established that he sustained an injury to his right knee. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant has established that he sustained an employment-related right knee injury.

FACTUAL HISTORY

On August 4, 2003 appellant, then a 47-year-old letter carrier, filed a claim for compensation for an occupational disease. He stated that while walking up and down steps he noticed pain in his knee that got worse as the day went on, and became unbearable by the end of the week. Appellant listed his condition as a torn meniscus of the right knee, and indicated that he first became aware of this condition and its relationship to his employment on April 29, 2003.

In an August 4, 2003 statement accompanying his claim form, appellant stated that he first noticed right knee pain in mid-April during physical therapy for his left ankle, that this pain went away that day but came back on April 29, 2003 that it became unbearable by the end of the week, that when he next worked on May 6, 2003 the pain became unbearable again, and that a magnetic resonance imaging (MRI) scan revealed a torn meniscus. He did not stop work.

Appellant submitted a May 7, 2003 note from a physician whose signature was illegible that set forth work restrictions for 21 days, and a June 6, 2003 note from a physician's assistant indicating that he should continue light duty and that surgery was recommended.

By letter dated September 25, 2003, the Office advised appellant that it needed further information on the job activities he believed contributed to his condition and a comprehensive medical report from his treating physician including an opinion, with medical reasons, on the cause of his condition.

By decision dated January 6, 2004, the Office found that the evidence was not sufficient to establish that he sustained an injury to his right knee, as he did not identify any specific work factors or events and did not submit medical evidence providing a diagnosis and an opinion as to what caused his condition.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.[1]

ANALYSIS

Appellant has identified an employment factor: walking up and down steps in performing his duties as a letter carrier. The reports appellant submitted either lacked proper identification to show that they were from a physician[2] or were not from a physician as defined in the Federal Employees' Compensation Act,[3] and thus cannot be considered probative medical evidence. However, even if these reports could be considered probative medical evidence, they do not diagnose any condition or attribute his claimed condition of a torn meniscus of the right

[1] *Froilan Negron Marrero*, 33 ECAB 796 (1982).

[2] *Merton J. Sills*, 39 ECAB 572 (1988).

[3] The report of a physician's assistant is not considered probative medical evidence under the Act. *Allen C. Hundley*, 53 ECAB 551 (2002).

knee to any employment activity. Appellant has not met his burden of proof to establish his claim.

CONCLUSION

Appellant has not established that he sustained an employment-related right knee injury.

ORDER

IT IS HEREBY ORDERED THAT the January 6, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 12, 2005
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member