

indicated that, while working his route on October 19, 2006 his knees and lower back were hurting him.² He stopped work on October 21, 2006.

Appellant submitted an October 19, 2006 form report which listed the date of injury as October 19, 2006 and noted that he reported that he “hurt knees and back while racking mail.” Another October 19, 2006 form report indicated in the history of injury section that appellant reported, “back and knee in pain since now he has to stand.” Both reports were stamped with the name and address of a medical care center but were not signed.

In an October 21, 2006 form report, a physician with an illegible signature listed the date of injury as October 19, 2006 and noted clinical findings of “tenderness and swelling” but did not provide a diagnosis. An unsigned form report dated October 20, 2006 lists a history of “bilateral knee pain and swelling,” findings of “bilateral swelling and tenderness” and a diagnosis of “degenerative arthritis.” In a December 4, 2006 form report, a physician with an illegible signature listed the date of injury as October 19, 2006, the history of injury as “back and both knees” and clinical findings of knee swelling and decreased range of motion.

In an undated form report, Dr. Lev J. Paukman, an attending Board-certified internist, listed the history of injury as “had injury on October 19, 2006 at work” and diagnosed “degenerative arthritis of both knees.” He checked a box indicating that the diagnosed condition was employment related but did not identify any particular employment factors as causing or aggravating the condition. On December 7, 2006 Dr. Eddy Leveque, an attending Board-certified family practitioner, indicated that appellant complained of low back and knee pain for many years but had more severe symptoms since October 2006.

In a December 26, 2006 letter, the Office requested that appellant submit additional factual and medical evidence. Appellant submitted an unsigned January 15, 2007 form report which listed the date of injury as October 19, 2006 but did not describe a mechanism of injury.

In a January 29, 2007 decision, the Office denied appellant’s claim that he sustained an employment injury on the grounds that he did not establish the factual aspect of his claim. The Office found that appellant did not adequately identify which particular employment factors caused or aggravated his claimed injury.

On January 15, 2006 Dr. Paukman indicated that appellant came to him on October 20, 2006 complaining of severe bilateral knee pain and swelling and severe low back pain “exacerbated by sitting or standing for prolonged periods of time, bending, lifting, pushing and climbing stairs.”³ He diagnosed severe lumbosacral strain and sprain and severe bilateral knee injury.

On February 11, 2007 appellant requested reconsideration of his claim. He indicated that he was requesting reconsideration of the present claim (file number 02-2521687), but alleged

² A supervisor asserted that appellant was upset that he was no longer allowed to sit and deliver mail and filed his claim as a form of retaliation.

³ Dr. Paukman also noted a history of appellant tripping and falling at work on an unspecified date and injuring his left knee on an unspecified date. In a February 7, 2007 report, he indicated that the fall occurred in 2001.

that this claim was improperly treated as a new traumatic injury rather than a recurrence of an “old injury” under file number 02-2008915. Appellant asserted that his supervisor gave him the wrong form and that he had “filled out the correct form and it is being submitted with my medical and other pertinent information.” In a February 16, 2007 statement, he again indicated that his claim should have been considered as a claim for recurrence of disability under file number 02-2008915. Appellant also indicated that a chair was taken away from him on October 16, 2006 and that he then had to stand for four hours per day whereas he usually only had to stand for one hour per day. He stated that “the claimed condition was directly related to the removal of the chair.”

In an October 19, 2006 report, Dr. Joseph Fassel, an attending Board-certified internist, indicated that appellant reported back and knee symptoms which had worsened recently. Appellant also submitted medical reports detailing treatment of his left knee problems in 2001 which included a torn medial meniscus. He submitted diagnostic test results from January 2007 regarding his back and knee conditions.

In a May 14, 2007 decision, the Office affirmed its January 29, 2007 decision. It again indicated that appellant had not adequately identified the claimed cause of his injury.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act⁴ has the burden of establishing the essential elements of his 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.⁵ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable employment factors.⁶

ANALYSIS

The Board finds that the Office properly denied appellant’s claim on the grounds that he did not adequately identify which particular employment factors caused or aggravated his claimed injury. As noted above, a claimant has the burden of proof to identify employment factors believed to have caused or aggravated a claimed employment-related condition.

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

On October 19, 2006 appellant filed a traumatic injury claim alleging that he sustained an injury at work in the form of back pain and bilateral knee pain. Regarding the cause of the injury, appellant stated, "I usually sit at work, but not able to sit and old injuries are flaring up knee and back pain." In an October 19, 2006 statement, appellant indicated that, "while working my route" on October 19, 2006 he felt that his knees and lower back were hurting him. However, he did not provide any indication of what aspects of working his route he felt caused him to sustain an injury. Appellant submitted several form reports dated between October and December 2006 which listed the date of injury as October 19, 2006 and contained the diagnosis of degenerative disease of the knees. None of these reports contain any description of the mechanism of injury.

In February 11 and 16, 2007 letters, appellant indicated that his present claim (file number 02-2521687), was improperly treated as a new traumatic injury rather than a recurrence of an older employment injury under file number 02-2008915.⁷ Appellant created further confusion over the cause of his claimed injury when he also indicated that he had to stand for longer periods because a chair was taken away from him on October 16, 2006. He stated that "the claimed condition was directly related to the removal of the chair." The record also contains a January 15, 2006 report of Dr. Paukman, an attending internist, which seems to implicate other ostensible employment factors. Dr. Paukman indicated that appellant came to him on October 20, 2006 complaining of severe bilateral knee pain and swelling and severe low back pain "exacerbated by sitting or standing for prolonged periods of time, bending, lifting, pushing and climbing stairs."

For these reasons, appellant has not clearly identified the employment factors which he believed caused or aggravated his claimed condition and therefore the Office properly denied his claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury in the performance of duty.

⁷ Appellant suggested that he had filed a recurrence of disability claim in connection with file number 02-2008915. This matter is not currently before the Board.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' May 14 and January 29, 2007 decisions are affirmed.

Issued: December 18, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board