United States Department of Labor
Employees' Compensation Appeals Board

K.C., Appellant	)	
and	)	**Docket No. 10-1769**
	)	**Issued: April 7, 2011**
U.S. POSTAL SERVICE, POST OFFICE, Half Moon Bay, CA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 22, 2010 appellant filed a timely appeal from a March 15, 2010 merit decision of the Office of Workers' Compensation Programs. Pursuant to the Federal Employees' Compensation Act[1] and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a traumatic injury in the performance of duty on April 19, 2008.

FACTUAL HISTORY

On January 29, 2010 appellant, then a 41-year-old letter carrier, filed a traumatic injury claim alleging that he injured his knee, elbow and shoulder on April 19, 2008 when a dolly he attempted to push through locked swing doors rebounded, collided with his knee and caused him

[1] 5 U.S.C. § 8101 *et seq.*

to fall. He did not incur any time loss from work. Appellant maintained that "swing doors are not suppose[d] to be lock[ed] when letter carriers are working." A witness heard him "scream out loud" and stated that he crashed into a door that "should not have been locked." Appellant did not stop work.

In a June 24, 2009 report, Dr. Shelley Anais Arredondo, Board-certified in occupational medicine, stated that appellant presented with continuing right knee, neck and shoulder pain. Appellant described his condition as "same injury, old claim." Dr. Arredondo noted the date of injury as March 16, 2008. She examined appellant and observed paracervical, trapezial, subacromial, subdeltoid and acromioclavicular (AC) joint tenderness to palpation and cervical and right shoulder soreness. Dr. Arredondo diagnosed cervical radiculopathy, AC ligament sprain and knee contusion. She added that appellant had returned to full duty on June 12, 2009. Appellant also submitted an August 1, 2008 work status form from Dr. Ofer M. Eibschutz, a Board-certified internist, who discharged appellant to regular duty on the same day. Dr. Eibschutz listed knee contusion, cervical radiculopathy and AC ligament sprain as the diagnoses and the date of injury as March 16, 2008.

The employing establishment controverted the claim in a January 29, 2010 letter, asserting that appellant was able to perform his regular work duties and previously chose not to pursue a claim for the April 19, 2008 incident. It also pointed out that he complained of right knee discomfort on June 8, 2009 but did not file a claim. Employing establishment e-mail correspondence for the period August 1 to 15, 2008 showed that appellant disputed March 16, 2008 as the date of incident and reiterated that he was injured on April 19, 2008. Accident reports dated May 27, 2008 and June 11, 2009 detailed a history of injury on April 19, 2008 and June 8, 2009. An August 2, 2008 e-mail from appellant's supervisor noted that, while appellant reported an accident on April 18 or 19, 2008, he was able to work his regular duties and chose not to pursue a claim.

On February 4, 2010 the Office informed appellant that the evidence was insufficient and advised him about the evidence needed to establish his claim. It gave him 30 days to submit medical reports describing his history of injury, diagnosis, symptoms, test results, period and extent of disability and treatment provided and offering a physician's reasoned opinion as to how the April 19, 2008 employment incident caused his present condition. Appellant replied with a copy of his CA-1 form traumatic injury notice and claim.

By decision dated March 15, 2010, the Office denied appellant's claim, finding the medical evidence insufficient to demonstrate causal relationship.

LEGAL PRECEDENT

An employee seeking compensation under the Act has the burden of establishing the essential elements of his claim by the weight of reliable, probative and substantial evidence,[2] including that he is an "employee" within the meaning of the Act and that he filed his claim within the applicable time limitation.[3] The employee must also establish that he sustained an

[2] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

[3] *R.C.*, 59 ECAB 427 (2008).

injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.[4]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[5]

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, 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.[6]

ANALYSIS

The evidence supports that appellant collided with a dolly on April 19, 2008 as he attempted to push it through locked swing doors at the employing establishment. However, he has not submitted medical evidence establishing that this work incident caused or contributed to a right knee, elbow or shoulder injury.

Dr. Arredondo's June 24, 2009 report and Dr. Eibschutz' August 1, 2008 work status form, respectively, diagnosed appellant as having knee contusion, cervical radiculopathy and AC ligament sprain. Neither physician offered an opinion as to the cause of these injuries. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[7] Also, Drs. Arredondo and Eibschutz did not identify the particular employment incident that led to appellant's condition. A physician must discuss whether the employment incident described by the claimant caused or contributed to the diagnosed medical condition.[8] In the absence of well-reasoned medical opinion explaining

[4] *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[5] *T.H.*, 59 ECAB 388 (2008).

[6] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[7] *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[8] *See John W. Montoya*, 54 ECAB 306, 309 (2003). Moreover, both physicians noted that an incident occurred on March 16, 2008, which conflicts with appellant's account. *See also M.W.*, 57 ECAB 710 (2006); *James A. Wyrick*, 31 ECAB 1805 (1980) (medical conclusions based on an incomplete or inaccurate history are of diminished probative value).

the causal relationship between the diagnosed condition and specific employment factors, appellant failed to meet his burden of proof.[9]

CONCLUSION

The Board finds that appellant did not establish that he sustained a traumatic injury in the performance of duty on April 19, 2008.

ORDER

IT IS HEREBY ORDERED THAT the March 15, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 7, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

[9] The Board notes that appellant submitted new evidence to the Office after issuance of the March 15, 2010 decision. The Board lacks jurisdiction to review evidence for the first time on appeal. 20 C.F.R. § 501.2(c). This, however, does not preclude appellant from having such evidence considered by the Office as part of a formal written request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606.