

FACTUAL HISTORY

On February 11, 2000 appellant, then a 54-year-old secretary, filed a traumatic injury claim alleging that on that date she slipped on an icy area and sustained multiple injuries, including a sore neck, back, buttocks, elbow, right thigh, right knee and right hand and headaches.

On April 26, 2000 OWCP accepted appellant's claim for cervical strain, lumbar strain, contusion right thigh, right arm and shoulder. Appellant received treatment for these conditions, which included surgery on her right shoulder on November 22, 2000 and February 9, 2007. On January 17, 2003 OWCP issued a schedule award for a 10 percent impairment of her right arm.

In a September 8, 2011 note, Dr. Louis Keppler, appellant's treating Board-certified orthopedic surgeon, indicated that appellant had severe osteoarthritis of her right knee. He noted that she had a history of a knee injury over 11 years ago. Dr. Keppler opined that appellant's right knee condition represented posttraumatic osteoarthritis and was substantially aggravated by the injury that she sustained on February 11, 2000. In a June 18, 2012 report, he indicated that she has a longstanding history of knee pain which was the result of an injury she sustained at work. Dr. Keppler noted that appellant has had conservative management for her knee condition, including multiple injections. He indicated that x-rays demonstrate bilateral osteoarthritis of the knee and he believed that the osteoarthritis was posttraumatic in its etiology. Dr. Keppler indicated that he was going to continue conservative care with injections, but that appellant may require knee replacement surgery. In a June 25, 2012 report, he stated that initially her most severe injury which required surgery was to the arm. Dr. Keppler noted that while undergoing this treatment, not much was being done for the evaluation and treatment of her leg. He opined that appellant had several periods of disability due to her injuries and that is why she developed posttraumatic osteoarthritis of the right knee primarily aggravated due to the slip and fall of February 11, 2000. Dr. Keppler noted that these changes included cartilage break down, loss of space in the knee, chronic pain, loss of range of motion and loss of full function of the knee. Although he indicated that he would continue conservative treatment, he did believe that a total knee replacement was in appellant's future.

By letter dated May 15, 2012, appellant stated that she has severe knee pain and had injections in her knee and will need to undergo another series of five injections to alleviate her knee pain. She noted that she has pain when walking and has trouble sleeping due to pain in the right knee.

By decision dated July 3, 2012, OWCP denied appellant's claim for adding posttraumatic osteoarthritis of the right knee as an accepted condition as the medical evidence did not establish that this was causally related to the accepted injury.

On July 5, 2012 appellant, through her attorney, requested a hearing before an OWCP hearing representative.

In a July 26, 2012 report, Dr. Keppler contended that his June 14, 2012 report did explain that appellant continued to be symptomatic in her right knee since the time of the injury and had been followed steadily by his office. He noted that, while admittedly her chief complaints

regarded her shoulder, she had a second complaint of knee pain and loss of knee range of motion with multiple effects on her activities of daily living including complaints of walking, sleeping, standing and changing position due to this knee pain. Dr. Keppler submitted treatment notes from himself and from others which he believed supported appellant's claim. He particularly indicated that a treatment note of April 25, 2005 and notes commencing September 8, 2011 were supportive of her claim. In the attached treatment note of April 25, 2005, Dr. Kim L. Stearns, a Board-certified orthopedic surgeon, discussed appellant's long-standing, progressive left knee pain. She indicated that appellant's x-rays showed moderate degenerative arthritis with narrowing in the medial compartment and patellofemoral disease.

At the hearing held on November 20, 2012, appellant testified that she had right knee pain since the date of the injury. She testified that her shoulder was in such bad shape that it was given priority, but over the years, her knee has buckled and that she had issues straightening her knee. Appellant discussed an incident in 2008 when she fell when her knee gave out while she was walking home from work. She noted that she went to see another physician at the Cleveland clinic and he suggested a stationary bike, which did seem to alleviate the pain. Appellant stated that her right knee was much worse than her left knee.

Subsequent to the hearing, appellant submitted a June 7, 2005 progress note from Dr. Thomas E. Anderson, a Board-certified orthopedic surgeon, indicating that he saw her for the first time for evaluation of right knee pain that she had over the last six weeks. Dr. Anderson noted that appellant stated that she fell in the winter time and that her knee started acting up approximately six weeks ago. He believed that appellant most likely had a torn medial meniscus with a *pes* bursitis. Dr. Anderson also noted that she had patellofemoral arthritis, which was bone on bone but that she was not having any symptoms in that location. He recommended anti-inflammatories as tolerated and further stated that appellant would contact him to schedule surgical intervention. X-rays taken on that date were interpreted by Dr. Paul C. Janicki, a Board-certified radiologist, as showing degenerative changes of the right knee.

In a decision dated January 23, 2013, the hearing representative affirmed the July 3, 2012 decision denying appellant's claim for injuries to her right knee.

LEGAL PRECEDENT

When an employee claims that he or she sustained an injury in the performance of duty, the employee must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The employee must also establish that such event, incident or exposure caused an injury. Once an employee establishes an injury in the performance of duty, he or she has the burden of proof to establish that any subsequent medical condition or disability for work, which the employee claims compensation, is causally related to the accepted injury.² To meet his or her burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the alleged injury was caused by the employment incident.³ Medical conclusions

² See *Leon Thomas*, 52 ECAB 202 (2001).

³ See also *C.S.*, Docket No. 12-880 (issued February 26, 2013); see *Gary J. Watling*, 52 ECAB 278 (2001).

unsupported by rationale are of diminished probative value and are insufficient to establish causal relation.⁴

ANALYSIS

On February 11, 2000 appellant filed a traumatic injury claim alleging that, on that date, she sustained injuries to her neck, back, buttocks, elbow, right thigh, right knee, right hand and headaches. OWCP accepted her claim for cervical strain, lumbar strain and contusion of the right thigh, right arm and shoulder. Appellant received treatment for these conditions. She is now claiming that she also sustained a right knee injury on February 11, 2000.

The Board finds that appellant did not establish that she suffered a right knee injury on February 11, 2000. Although appellant mentions an injury to her right knee on her claim form, the first medical report linking a right knee injury to the February 11, 2000 accident does not occur until September 8, 2011, over 11 years later. At that time, Dr. Keppler concluded that she had severe osteoarthritis of her right knee causally related to the prior employment-related accident. Subsequently, he provided further reasoning for his conclusion, indicating that at the beginning of her treatment, the concern was with appellant's more severe injury to her arm, but that she developed posttraumatic osteoarthritis of the right knee primarily aggravated due to the slip and fall of February 11, 2000. Dr. Keppler noted that changes included cartilage break down, loss of space in the knee, chronic pain, loss of range of motion and loss of full function of the knee.

The Board notes, however, that there was no indication that the employment-related incident caused appellant's right knee condition for a period of over 11 years despite significant medical reports for this period places Dr. Keppler's conclusion under serious question. The only mention of right knee pain during this time was on June 7, 2005 when Dr. Janicki interpreted an x-ray as showing degenerative changes in the right knee. On that date, Dr. Anderson indicated that he saw appellant for the first time for an evaluation of right knee pain. He noted that she fell in winter but that the pain started acting up in the past six weeks. Dr. Keppler did not indicate that the winter fall occurred in 2000 and it is presumed that it occurred within a year of his examination. He further indicated that he saw appellant for the "first time" for right knee pain. Therefore, the first medical notation of right knee pain irrespective of cause was not until five years after the employment injury. Dr. Keppler suggests that the April 25, 2005 note from Dr. Stearns is indicative of an employment relationship, but this note discusses progressive pain in her left knee, not in her right knee. The Board also notes that there is no rationalized medical evidence that the February 11, 2000 employment injury aggravated appellant's bilateral osteoarthritis of her knee.

Accordingly, the Board finds that the absence of contemporaneous medical evidence of a right knee injury or any subsequent bridging symptoms for years following the February 11, 2000 employment injury mitigate against the existence of a causal relation between that injury and the newly diagnosed injury to appellant's right knee.⁵

⁴ *Albert C. Brown*, 52 ECAB 152 (2000).

⁵ *See M.B.*, Docket No. 08-1751 (issued March 11, 2009).

CONCLUSION

The Board finds that appellant has not established that her claim should be expanded to include an injury to her right knee causally related to the February 11, 2000 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 23, 2013 is affirmed.

Issued: September 12, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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