

**United States Department of Labor
Employees' Compensation Appeals Board**

C.V., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Columbia, SC, Employer)

**Docket No. 13-2003
Issued: January 23, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On August 29, 2013 appellant filed a timely appeal from an August 9, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) 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 an injury to the right knee causally related to factors of his federal employment.

FACTUAL HISTORY

On May 1, 2013 appellant, then a 55-year-old manager of distribution operations, filed an occupational disease claim (Form CA-2) alleging injury to the right knee in the performance of duty. He stated that his condition resulted from walking on a concrete floor, which aggravated a

¹ 5 U.S.C. § 8101 *et seq.*

right leg condition. Appellant first became aware of his condition on January 26, 2012 and of its relationship to his employment on March 31, 2013.

By letter dated May 13, 2013, OWCP requested additional factual and medical evidence. It noted that in order for medical evidence to support a claim, it must contain a firm medical diagnosis and that a finding of “pain” was not a definite diagnosis. OWCP afforded appellant 30 days to submit additional evidence. It also requested information regarding his duties and precautions against injury from the employing establishment.

In an excuse slip dated January 31, 2012, Dr. David E. Koon, Jr., a Board-certified orthopedic surgeon, stated that appellant should not work until cleared in three weeks. In an excuse slip dated June 12, 2012, he stated that appellant had a work restriction of no more than four hours a night.

By letter dated February 28, 2012, the employing establishment requested that appellant submit medical documentation relating to his absence from work beginning January 26, 2012.

By letter dated March 21, 2012, the employing establishment noted that it had received the January 31, 2012 note from Dr. Koon indicating that appellant could not work for three weeks. Consequently, Dr. Koon was in an absent-without-leave status.

Appellant submitted excuse slips from Dr. Koon dated from March 27 to May 24, 2012. Dr. Koon released him to work on June 18, 2012.

In a treatment note dated February 28, 2012, Dr. Koon stated that appellant had visited with a chief complaint of right knee pain. A magnetic resonance imaging (MRI) scan provided by appellant revealed extensive post-traumatic arthritic changes of the knee, especially in the lateral compartment. Dr. Koon also listed tears of the medial meniscus. He recommended a total knee arthroplasty.

By decision dated August 9, 2013, OWCP denied appellant’s claim. It found that he had not submitted medical evidence providing a firm diagnosis, as the only assessment provided for his right knee was “pain.”

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an “employee of the United States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.³

² 5 U.S.C. §§ 8101-8193.

³ *T.H.*, 59 ECAB 388, 393 (2008); *see Steven S. Saleh*, 55 ECAB 169, 171-72 (2003); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee 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 diagnosed condition is causally related to the employment factors identified by the employee.⁴

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence.⁵ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁶ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁷

ANALYSIS

Appellant filed a claim alleging a right knee condition due to factors of his federal employment. OWCP denied his claim, finding that he did not submit sufficient medical evidence. The Board finds that appellant did not submit sufficient medical evidence to establish that he sustained a right knee condition due to factors of his federal employment.

Dr. Koon's excuse notes dated January 31 to May 31, 2012 do not provide a firm medical diagnosis. He noted work restrictions for appellant and dates on which he was unable to work. In support of his claim, an employee must submit sufficient medical evidence to establish that an employment incident caused a personal injury.⁸ As the excuse notes do not provide a diagnosis of his right knee condition, they are not sufficient to establish that his employment activities caused a personal injury.

The Board notes that pain is generally a description of a symptom and not considered a firm medical diagnosis.⁹ Dr. Koon's February 28, 2012 treatment note did not provide a diagnoses other than "pain." He briefly noted that appellant's chief complaint on that date was right knee pain. On examination of an MRI scan, Dr. Koon listed post-traumatic arthritic changes and tears of the medial meniscus. He did not provide any narrative opinion explaining how the arthritis or torn meniscus related to appellant's work activities.

⁴ *R.H.*, 59 ECAB 382 (2008).

⁵ *See J.Z.*, 58 ECAB 529, 531 (2007); *Paul E. Thams*, 56 ECAB 503, 511 (2005).

⁶ *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *James Mack*, 43 ECAB 321, 329 (1991).

⁸ *Id.* *See Shirley A. Temple*, 48 ECAB 404, 407 (1997); *John J. Carlone* 41 ECAB 354, 356-57 (1989).

⁹ *B.P.*, Docket No. 12-1345 (issued November 13, 2012); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

Appellant identified walking on concrete as the factor which caused his right knee condition. However, Dr. Koon's treatment records do not discuss the nature of appellant's duties as they relate to the diagnoses of post-traumatic arthritic changes and tears of the medial meniscus. He did not offer any opinion as causal relationship or mention work-related factors in any manner. 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.¹⁰ The mere fact that a disease or condition manifests itself during a period of employment or the claimant's belief that the disease or condition was caused or aggravated by employment factors or incidents is insufficient to establish causal relationship.¹¹ To establish causal relationship, a physician must provide an opinion on whether the employment incident described caused or contributed to the claimant's diagnosed medical condition and support that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical and rational.¹² As Dr. Koon did not offer such an opinion, the Board finds that appellant has not met his burden of proof to establish that he sustained a right knee condition due to his federal employment.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that the claimed occupational disease is causally related to factors of his federal employment.

¹⁰ See *Michael E. Smith*, 50 ECAB 316 n.8 (1999).

¹¹ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997); *Charles E. Evans*, 48 ECAB 692, 693 (1997).

¹² See *John W. Montoya*, 54 ECAB 306, 309 (2003); see also *H.D.*, Docket No. 07-1026 (issued October 1, 2007).

ORDER

IT IS HEREBY ORDERED THAT the August 9, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 23, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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