

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

P.L., Appellant

and

**DEPARTMENT OF THE NAVY, PEARL
HARBOR NAVAL SHIPYARD, HI, Employer**

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**Docket No. 14-658
Issued: June 13, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA HOWARD FITZGERALD, Acting Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 30, 2014 appellant filed a timely appeal from the October 4, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his occupational disease claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 established a right knee injury causally related to factors of his federal employment.

On appeal, appellant contends that he sustained an employment-related right knee injury.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 18, 2013 appellant, then a 56-year-old electronics mechanics supervisor, filed an occupational disease claim (Form CA-2) alleging that on December 19, 1985 he first became aware of his right knee pain and realized that his condition was caused by his federal employment. He stated that crawling in tight spaces, twisting his knee and carrying heavy equipment and tools up and down ladders at work caused his right knee to worsen. Appellant was last exposed to the conditions alleged to have caused his condition on March 20, 2011.

By letter dated July 19, 2013, OWCP advised appellant that the evidence submitted was insufficient to establish his claim. It requested additional factual and medical evidence. OWCP also requested that the employing establishment submit any medical evidence regarding treatment appellant received at its medical facility.

In an undated letter, appellant listed a history of his employment and medical treatment. In a September 4, 2013 letter, he stated that he had retired from the employing establishment.

Medical reports dated February 13, 1986 from Dr. Terry A. Vernoy, an orthopedic surgeon, indicated that appellant underwent right knee arthroscopy with a partial medial meniscectomy to treat his torn right medial meniscus on that date. He listed a history that appellant struck the inside portion of his right knee while climbing down a large ladder at work on December 19, 1985.

A February 14, 1986 pathology report from The Queen's Medical Center contained a partially illegible signature of a physician. It stated that a specimen showed fibrocartilage consistent with meniscus, degeneration.

In a March 25, 2011 report, Dr. Brent J.H. Baker, a Board-certified radiologist, advised that x-rays of the right knee showed medial slightly greater than lateral compartments. There was calcification along the articular margin of the medial meniscus that suggested chondrocalcinosis. There was also degenerative spurring of the patella. No large knee effusion or fracture was identified.

In a June 6, 2012 report, Dr. Stephen Ko, a Board-certified radiologist, advised that a magnetic resonance imaging (MRI) scan of the right knee demonstrated torn posterior horn medial meniscus, multiloculated Baker's cyst. There was a multiloculated and ganglion or bursal fluid collection surrounding the popliteus tendon. The MRI scan showed thickened ill-defined acromioclavicular and posterior cruciate ligament without increased signal and suspected chronic partial tears. There was mild-to-moderate arthritis and mild knee effusion.

Appellant submitted an amended Form CA-2 to reflect that he first became aware of his claimed right knee condition and realized that it was caused by his employment on March 25, 2011.

In an October 4, 2013 decision, OWCP denied appellant's occupational disease claim. It found that the medical evidence was insufficient to establish that he sustained an injury or a medical condition causally related to the established employment factors.

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 filed within the applicable time limitation; that an injury was sustained while 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant 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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable 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.⁵ Neither the fact that appellant's condition became apparent during a period of employment nor, his or her belief that the condition was caused by his or her employment is sufficient to establish a causal relationship.⁶

ANALYSIS

OWCP accepted appellant's factors of federal employment as an electronics mechanic supervisor. It denied his claim, however, on the grounds that the evidence failed to establish a causal relationship between those activities and his diagnosed conditions. The Board finds that the medical evidence of record is insufficient to establish that appellant developed a right knee condition causally related to factors of his federal employment.

Dr. Vernoy's reports listed a history of a right knee injury sustained by appellant at work on December 19, 1985 and addressed his torn right medial meniscus for which he underwent arthroscopic surgery on February 13, 1986. These reports predate the 2013 occupational disease claim as well as the date that appellant stated that he was first aware of his condition,

² 5 U.S.C. §§ 8101-8193.

³ C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *id.* at 351-52.

⁶ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

March 25, 2011. Thus, Dr. Vernoy's reports provide no specific support for the claimed injury that is at issue on the present appeal.

The diagnostic test results from Drs. Baker and Ko addressed appellant's right knee conditions, but failed to provide a medical opinion addressing whether his diagnosed conditions were caused by the established employment factors. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.⁷ The Board finds that the reports from Drs. Baker and Ko are insufficient to establish appellant's claim.

The February 14, 1986 pathology report from The Queen's Medical Center which contained the physician's partially illegible signature is insufficient to establish appellant's claim. Reports that are unsigned or bear illegible signatures, lack proper identification and cannot be considered probative medical evidence.⁸

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained a right knee condition causally related to the accepted employment factors. Appellant did not meet his burden of proof.

On appeal, appellant contended that he sustained an employment-related right knee injury. As discussed above, he did not submit sufficiently rationalized medical evidence to establish his claim.

CONCLUSION

The Board finds that appellant has failed to establish that he sustained a right knee injury causally related to factors of his federal employment.

⁷ See *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

⁸ *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

ORDER

IT IS HEREBY ORDERED THAT the October 4, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2014
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge
Employees' Compensation Appeals Board

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

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