United States Department of Labor
Employees' Compensation Appeals Board

P.J., Appellant	)	
and	)	**Docket No. 14-337**
	)	**Issued: May 5, 2014**
U.S. POSTAL SERVICE, POST OFFICE, Coppell, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 29, 2013 appellant filed a timely appeal from an October 9, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) which denied her occupational disease claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant met her burden of proof to establish that her left knee condition was causally related to factors of her employment.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant submitted additional evidence following the October 9, 2013 decision. Since the Board's jurisdiction is limited to evidence that was before OWCP at the time it issued its final decision, the Board may not consider this evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c); *Sandra D. Pruitt,* 57 ECAB 126 (2005). Appellant may submit that evidence to OWCP with a request for reconsideration.

FACTUAL HISTORY

On July 12, 2013 appellant, then a 51-year-old distribution clerk, filed an occupational disease claim alleging that she sustained left knee pain and osteoarthritis as a result of repetitively walking and going up stairs in the performance of duty. On March 8, 2011 she experienced knee pain and was prescribed a knee brace by her physician. The next year appellant started to hear a loud, crushing noise when she walked or used the stairs. She first became aware of her condition on March 8, 2011 and realized it resulted from her employment on June 12, 2013.

In a statement, appellant reported that she worked for the employing establishment for 29 years. She explained that her duties involved standing for six to eight hours while pulling, pushing, stacking and putting mail in containers. Appellant related that her doctor informed her that standing on concrete flooring put a lot of pressure on the legs and feet. She believed that walking and standing on the floor for work caused her left knee condition.

In a March 1, 2011 report, Dr. Shawn C. Bonsell, a Board-certified orthopedic surgeon, noted appellant's complaints of left knee pain. He related that she had a three-week history of insidious onset of pain that developed in the back region of her left knee but no episode of acute trauma, blow or impact caused it. Upon examination, Dr. Bonsell observed range of motion from 0 to 120 degrees and mild amount of effusion. The medial joint line was relatively nontender. Dr. Bonsell diagnosed suspected Baker's cyst with osteoarthritis of the left knee. Appellant also submitted an August 25, 2010 report from Dr. Bonsell regarding treatment for bilateral shoulder impingement.

In a March 2, 2011 magnetic resonance imaging (MRI) scan report of the left knee, Dr. Randolph T. Leone, a Board-certified diagnostic radiologist, observed intact anterior and posterior cruciate ligaments and lateral menisci. He noted a strain to the superficial and deep fibers of the proximal medial collateral ligament without disruption. Dr. Leone found no significant Baker's cyst and normal regional musculature.

In a March 8, 2011 report, Dr. Bonsell noted that the MRI scan revealed no evidence of a Baker's cyst but patellofemoral contour problems and early arthritic changes involving the patellofemoral joint. He noted giving appellant a knee injection and to schedule a follow-up examination in three or four months.

In a June 12, 2013 report, Dr. Kyle Stuart, an orthopedic surgeon, who specializes in sports medicine, related appellant's complaints of left knee pain for the past three months. He reviewed her history and conducted an examination. Dr. Stuart observed traces of effusion and joint line tenderness. Range of motion was positive for pain with deep flexion. Dr. Stuart reported that an x-ray of the left knee showed moderate degenerative changes in the left knee noted by medial joint space narrowing and joint line sclerosis. He diagnosed left knee pain and osteoarthritis.

By letter dated July 19, 2013, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested that she submit a detailed description of the

employment activities that she believed caused her condition and a comprehensive medical report from a physician explaining how her condition resulted from her employment.

In an undated statement, appellant reported that she worked for the employing establishment since November 1983 as a distribution clerk. She worked from 9 a.m. to 5:30 p.m. Monday to Friday and had no other activity, except walking her dog around the block. Appellant's work duties included: walking up and down stairs every day; keying and sorting mailboxes; pushing containers; and getting dispatches ready for the drivers. She explained that while working she sat down and experienced difficulty when bending her knee to get back up. Appellant had an appointment with her doctor who informed her that her cartilage was going out from standing and walking back and forth.

In a September 6, 2013 statement, the employing establishment reported that appellant worked on a concrete floor but rotated every one to two hours to key mail. There were two 10-minute breaks every 2 hours and a 30-minute lunch break. The employing establishment stated that appellant walked back and forth on concrete floors working on chutes and climbed about 10 steps when she climbed stairs. Some of appellant's duties also involved sacking, moving containers from one point to another, bending, lifting and pushing. The employing establishment included a description of duties for a distribution clerk.

In a September 11, 2013 report, Dr. Stuart noted that he examined appellant for follow up of left knee osteoarthritis and recent injury. Upon examination, he observed tenderness along the lateral joint line and pain with deep flexion. Dr. Stuart diagnosed left knee osteoarthritis.

In a decision dated October 9, 2013, OWCP denied appellant's occupational disease claim. It accepted that she worked as a distribution clerk and was diagnosed with a left knee condition but denied the claim finding insufficient medical evidence to establish that her left knee condition was causally related to factors of her employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence[3] including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.[4] In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which

[3] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan,* 20 ECAB 55, 58 (1968).

[4] *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton,* 40 ECAB 1143, 1145 (1989).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[5]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[6] 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.[7]

ANALYSIS

Appellant alleged that she developed a left knee condition as a result of her duties as a distribution clerk. OWCP accepted that her duties included repetitive walking and standing on concrete floors and that she was diagnosed with left knee osteoarthritis. It denied appellant's claim finding insufficient medical evidence to establish that her left knee condition was causally related to the factors of her employment. The Board finds that she did not provide sufficient medical evidence to establish that her left knee condition resulted from her employment duties.

Appellant was initially treated for left knee problems by Dr. Bonsell, who related that she had a three-week history of left knee pain with no episode of acute trauma or injury. On examination, Dr. Bonsell observed patellofemoral contour problems and early arthritic changes. He found no evidence of Baker's cyst and diagnosed osteoarthritis of the left knee. Dr. Bonsell gave appellant an injection to follow up in a few weeks. Although he diagnosed osteparthritis, he did not provide any opinion on the cause of her condition. Dr. Bonsell did not address how appellant's work as a distribution clerk caused or contributed to her condition. The Board has held that 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.[8] Dr. Bonsell's reports, therefore, are insufficient to establish appellant's claim. Dr. Leone's diagnostic report and Dr. Stuart's reports are also insufficient to establish causal relationship. Neither physician offered any opinion on whether appellant's left knee condition was causally related to her federal employment.

The issue of causal relationship is a medical question that must be established by probative medical opinion from a physician.[9] As the record does not contain such probative medical opinion to demonstrate causal relationship, the Board finds that OWCP properly denied appellant's occupational disease claim.

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[5] *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

[6] *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

[7] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

[8] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *.A.D.*, 58 ECAB 149 (2006).

[9] *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, 57 ECAB 137 (2005).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her left knee condition was causally related to factors of her employment.

ORDER

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

Issued: May 5, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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