U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH L. STRUCK and U.S. POSTAL SERVICE,
POST OFFICE, Billings, Mont.

Docket No. 96-1916; Submitted on the Record;
Issued July 24, 1998

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that his right knee condition is causally related to factors of his federal employment.

On March 16, 1995 appellant, then a 51-year-old postal clerk, filed an occupational disease claim alleging that he sustained an injury to his right knee in the performance of duty. Appellant first became aware of his disease or illness on February 16, 1995, and first realized his condition was caused or aggravated by his employment and reported the condition to his supervisor on February 22, 1995. Appellant stated that he began experiencing sharp piercing pain in his right knee after continuous on-the-job standing, twisting and lifting. Appellant went on to explain, that because he had been a left below the knee amputee since July 1968, and had been weak from a back injury sustained since March 1989, his right leg has been overused. The employing establishment controverted appellant's claim for benefits. In a decision dated February 14, 1996, the Office of Workers' Compensation Programs rejected appellant's claim on the grounds that the evidence of record failed to establish a casual relationship between the injury and the claimed condition or disability.

The Board has fully reviewed the case record and finds that appellant has not met his burden of proof in establishing that his right knee condition is causally related to his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained 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.[2]

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[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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 the 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.[3] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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 of the claimant,[4] must be one of reasonable medical certainty,[5] 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]

In the present case, the Office found that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. However, the medical evidence of record was insufficient to establish that the diagnosed condition was causally related to any workplace factors or conditions. Appellant was advised of the deficiencies in his claim and afforded an opportunity to provide supportive evidence, however, no medical evidence addressing whether any medical condition arose out of appellant's federal employment has been submitted.

In a medical report dated March 9, 1995, Dr. William S. Shaw, Board-certified in occupational medicine noted that appellant had stated: "over the past approximately 3 [to] 4 months, he [appellant] has had increased pain in the right knee." Dr. Shaw stated that appellant "continues working as a window clerk at the post office. He's [appellant's] on his feet a lot but it's basically going okay." On physical examination, Dr. Shaw indicated that the "exam[ination] shows tenderness over the anterior knee and at the joint lines bilaterally both medically and laterally. Patellar compression increases pain. Ligamentously, the knee appears stable." Dr. Shaw opined that appellant had anterior knee pain most likely either based on chondromalacia patella or degenerative disease of the joint; that he did not think appellant's condition was neurologic; that he did not believe appellant's condition was related to his previous back surgery and that "it is unclear whether this has any relationship to work at all." Dr. Shaw then referred appellant to Dr. Willard J. Hull, a Board-certified orthopedic surgeon for x-rays and further evaluation.

[3] *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[4] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[5] *See Morris Scanlon*, 11 ECAB 384-85 (1960).

[6] *See William E. Enright*, 31 ECAB 426, 430 (1980).

In a medical report dated March 9, 1995, Dr. Hull, presented the history of appellant's injury as given to him by appellant and noted his diagnostic impression as "probable old ligament instability of the right knee with possible meniscal injury due to chronic laxity." On examination, Dr. Hull indicated that appellant had recurvatum on extension of the knee with relaxation and definite posterolateral instability of the knee with 1 percent pivot shift and between 1 and 2+ lachman and drawer laxity of the knee. Dr. Hull also indicated that appellant had positive McMurray for joint pain with fairly significant rotational laxity to go along with posterolateral rotational instability. He stated that the plain x-rays were unremarkable other the slight varus positioning but no narrowing or arthritic changes of the joint. Dr. Hull also stated that his clinical impression was that this is an old ligament instability of the knee with possibly a new meniscal injury due to the chronic laxity and instability of the knee.

In a medical report dated October 25, 1995, and concerning appellant's right knee condition, Dr. Hull stated that "it would be very unlikely that a significant anterior cruciate injury of 27 years ago would have been totally asymptomatic until the recent problem that started on the job. The other thing that would go against this being a 27-year-old injury to the anterior cruciate is that at the time of arthroscopy, his articular surface and menisci looked absolutely normal. This would be very unlikely in a joint that had had 27 years of anterior cruciate instability. I would assume, although I cannot give a 100 [percent] guarantee that this is probably not related to an injury to the knee 27 years ago."

Dr. Hull has also submitted various other medical reports and operative notes concerning appellant's knee arthroscopy followed by intra and extra articular anterior cruciate ligament reconstruction.

The medical reports submitted by Dr. Shaw, Board-certified in occupational medicine and Dr. Hull, a Board-certified orthopedic surgeon are insufficient to establish appellant's claim for benefits as the doctors neither provided a history of appellant's left knee amputation of July 1968 or back injury of March 1989, or otherwise provide a rationalized medical opinion based upon reasonable medical certainty, that there is a causal connection between appellant's diagnosed condition and any specific workplace factors.[7] For example, the doctors did not present an actual awareness of appellant's job duties, or provide medical rationale explaining how or why continuous on-the-job standing, twisting and lifting caused or contributed to the presence or occurrence of appellant's right knee condition; or address what effect, if any, appellant's outside activities of remodeling his home and motorcycle riding had on his diagnosed condition. Therefore these medical reports are of little probative value and insufficient to meet appellant's burden of proof.[8]

The Board, however, has held that an award of compensation may not be based on surmise, conjecture or speculation, or appellant's belief of causal relationship. The mere fact

[7] *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *see also George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[8] *Id.*

that a disease or condition manifests itself or worsens during a period of employment[9] or that work activities produce symptoms revelatory of an underlying condition[10] does not raise an inference of causal relationship between the condition and the employment factors. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.[11] As appellant has not submitted rationalized medical evidence explaining how and why the diagnosed condition was caused or aggravated by his federal employment, the Office properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated February 14, 1996 is affirmed.

Dated, Washington, D.C.
July 24, 1998

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[9] *William Nimitz, Jr., supra* note 4.

[10] *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

[11] *Victor J. Woodhams*, *supra* note 3.