

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RODOLFO H. CAMPBELL and DEPARTMENT OF THE NAVY,
LONG BEACH NAVAL SHIPYARD, Long Beach, Calif.

*Docket No. 97-2040; Submitted on the Record;
Issued March 19, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that his current right knee condition was aggravated by factors of his federal employment.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet his burden of proof to establish that his current right knee condition was aggravated by factors of his federal employment.

On December 5, 1996 appellant, then a security guard, filed a claim for an occupational disease (Form CA-2) alleging that he first realized on April 14, 1993, that walking and standing aggravated his right knee condition.¹ Appellant stopped work on November 29, 1996.²

By letter dated March 3, 1997, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office further advised appellant to submit factual and medical evidence supportive of his claim. By letter of the same date, the Office advised the employing establishment to submit factual evidence.

By decision dated April 4, 1997, the Office found the evidence of record insufficient to establish fact of injury. Specifically, the Office found the evidence of record sufficient to establish that appellant actually experienced the claimed event. The Office, however, found the medical evidence of record insufficient to establish that appellant sustained a medical condition caused by the employment incident.

¹ Previously, appellant filed a claim assigned number A13-1019280 for a right knee injury sustained on December 24, 1992 and April 14, 1993.

² Appellant resigned from the employing establishment in lieu of involuntary action effective November 29, 1996.

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.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 this case, appellant has failed to submit any rationalized medical evidence establishing that his current right knee condition was aggravated by factors of his employment. The employing establishment's January 7, 1993 medical treatment notes signed by M.L. Sarmiento, a registered nurse, do not constitute competent medical evidence because a nurse is not considered a physician under the Federal Employees' Compensation Act.⁷

The April 14, 1993 medical treatment notes of Dr. Edgar Briones, an occupational medicine physician, revealed his findings on examination and physical restrictions. Dr. Briones diagnosed a collateral ligament strain and stated that appellant's knee was coming off a contusion injury and had been favored for so long. His notes failed to address whether appellant's condition was aggravated by factors of his employment.

The employing establishment's dispensary records dated July 7, April 14 and 21, August 19 and September 13, 1993 indicated appellant's medical treatment are insufficient to establish appellant's burden inasmuch as they failed to address whether appellant's right knee condition was aggravated by factors of his employment.⁸

³ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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

⁵ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ See *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).

⁷ 5 U.S.C. § 8101(2); *Joseph N. Fassi*, 42 ECAB 677, 679 (1991); *Betty G. Myrick*, 35 ECAB 922, 923 (1984).

⁸ The April 21, 1993 dispensary record revealed that appellant was discharged from any further medical treatment.

An undated radiological report which was signed by someone whose signature is illegible indicated a history that appellant hit his right knee against a door frame. This report neither provided that the signer had an awareness of appellant's employment duties nor any medical rationale explaining how or why appellant's knee condition was aggravated when he hit his knee against the door frame.

The Kaiser Permanente disability certificates dated February 28 and March 15, 1995 are insufficient to establish appellant's burden inasmuch as they failed to indicate a diagnosis and to discuss whether or how the diagnosed condition aggravated appellant's right knee condition.⁹

A Kaiser Permanente customer receipt indicated appellant's medical treatment for hypertension. This evidence failed to establish that appellant's right knee condition was aggravated by factors of his employment.

Inasmuch as appellant has failed to submit medical evidence establishing that his right knee condition was aggravated by factors of his employment, the Board finds that he has failed to meet his burden of proof.

The April 4, 1997 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
March 19, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁹ *Daniel Deparini*, 44 ECAB 657, 659 (1993).