

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LARRY SWIERCZEK and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, Kansas City, MO

*Docket No. 98-1103; Submitted on the Record;
Issued September 17, 1999*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant's left knee treatment beginning August 20, 1996, including surgery on October 11, 1996, and his disability from October 11 to November 12, 1996 are causally related to his March 14, 1994 employment injury.

On March 15, 1994 appellant, then a 38-year-old maintenance mechanic, filed a claim for a sprain of the left ankle and a slight sprain of the left knee sustained on March 14, 1994 when he stepped in soft soil in an excavation area. Appellant was seen by a Dr. Carter at North Kansas City Hospital on March 15, 1994; a soft tissue injury of the ankle and knee were diagnosed, x-rays of the left knee and ankle were taken and an ace bandage for the left knee and crutches were provided. Appellant was cleared by his attending physician to return to his regular work on March 21, 1994.

On November 20, 1996 appellant filed a claim for a recurrence of disability. He listed the date of the recurrence as August 16, 1996 and the date he stopped work as October 11, 1996. Appellant's left knee was examined on August 20, 1996 by Dr. Gregory M. Hansen, a Board-certified orthopedic surgeon, who performed arthroscopic surgery on the left knee on October 11, 1996. In a report dated December 6, 1996, on a form of the Office of Workers' Compensation Programs, Dr. Hansen diagnosed a medial meniscus tear and chondromalacia of appellant's left knee and checked "yes" to the form's question of whether the condition found was caused or aggravated by the employment injury, which he described in a manner consistent with appellant's description.

On March 25, 1997 the Office accepted that appellant's March 14, 1994 employment injury resulted in a left ankle sprain that resolved by March 25, 1994. By decision dated March 25, 1997, the Office found that appellant had not established that his recurrence of disability due to a left knee condition was causally related to his March 14, 1994 employment injury. Following a hearing held at appellant's request on November 20, 1997, an Office

hearing representative affirmed the Office's March 25, 1997 decision, in a decision dated January 27, 1998.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.¹

The Board finds that appellant has not established that his left knee treatment beginning August 20, 1996, including surgery on October 11, 1996, and his disability from October 11 to November 12, 1996 are causally related to his March 14, 1994 employment injury.

Dr. Hansen, the Board-certified orthopedic surgeon who performed surgery on appellant's left knee on October 11, 1996, lent some support to appellant's claim that his left knee condition was causally related to his March 14, 1994 employment injury by checking "yes" to an Office form's question of whether the condition found was caused or aggravated by the employment injury. Without any explanation or rationale, however, the checking of a box on a form has little probative value and is insufficient to meet appellant's burden of proof.² Dr. Hansen did not offer any rationale for his conclusion regarding causal relation in his December 6, 1996 report on an Office form or in his narrative reports. In a report dated March 3, 1997, Dr. Hansen stated, "He has a twofold problem to his knee, one is acute injury of medial meniscus and two is a progressive degenerative condition of his medial femoral condyle." While this report indicates that appellant's meniscus tear is separate from his degenerative condition, it does not explain why the doctor believes the meniscus tear is related to appellant's March 14, 1994 employment injury. Such an explanation is especially important in light of appellant's prior knee injury, the long lapse of time between the employment injury and the worsening of appellant's symptoms in 1996 and the absence of any evidence of medical treatment of the left knee between March 15, 1994 and August 20, 1996.

¹ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

² *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

The decisions of the Office of Workers' Compensation Programs dated January 27, 1998 and March 25, 1997 are affirmed.

Dated, Washington, D.C.
September 17, 1999

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member