

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MONTE Q. ALLEN and DEPARTMENT OF THE AIR FORCE,
FAIRCHILD AIR FORCE BASE, WA

*Docket No. 98-1623; Submitted on the Record;
Issued February 14, 2000*

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 he sustained a recurrence of disability causally related to his accepted employment-related injury.

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 he sustained a recurrence of disability causally related to his accepted employment-related injury.

On June 28, 1994 appellant, then a 44-year-old firefighter, filed a traumatic injury claim (Form CA-1) alleging that on June 20, 1994 he strained or twisted his left knee while "running and hiding from possible other shooter from base hospital."

The Office of Workers' Compensation Programs accepted appellant's claim for left knee strain.

On May 20, 1996 the Office received medical evidence regarding appellant's left knee. In response, the Office advised appellant by letter dated June 12, 1996 that it had received medical evidence indicating that he may have sustained a recurrence of disability. The Office then advised appellant to submit a recurrence claim (Form CA-2a). The Office also advised appellant to submit factual and medical evidence supportive of his claim.

On July 3, 1996 appellant filed a Form CA-2a.

By decision dated July 12, 1996, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability causally related to his June 20, 1994 employment injury. In a July 10, 1996 letter, appellant requested reconsideration of the Office's decision.

By decision dated August 20, 1996, the Office denied appellant's request for modification based on a merit review of the claim. In a July 9, 1997 letter, appellant, through his counsel, requested reconsideration of the Office's decision.

In a decision dated January 28, 1998, the Office denied appellant's request for modification based on a merit review of the claim.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury. This burden includes the necessity of furnishing medical evidence from a qualified physician who on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.¹

In this case, appellant has not submitted rationalized medical evidence establishing that he sustained a recurrence of disability causally related to his June 20, 1994 employment injury. Further, none of the medical evidence of record provides a discussion of the absence of any bridging symptoms or evidence of medical treatment for over two years.

Appellant submitted medical evidence regarding the treatment of his knee beginning in 1988 and during 1994 subsequent to his June 20, 1994 employment injury. A January 28, 1988 medical report of Dr. Jeffrey R. O'Connor, a Board-certified family practitioner and appellant's treating physician, to Dr. Travis E. White, a Board-certified orthopedic surgeon, indicated Dr. White's previous treatment of appellant's left knee and appellant's current complaints. Dr. O'Connor opined that appellant had meralgia paresthetica on his left thigh and that he was in need of an evaluation. Dr. White's April 1, 1988 medical report to Dr. O'Connor revealed appellant's medical history and his findings on physical examination of appellant's back and lower extremities. Dr. White agreed that there was an isolated involvement of the lateral femoral cutaneous nerve of the thigh or meralgia paresthetica. He concluded that appellant's condition was not disabling and worthy of surgical intervention at that time. Dr. O'Connor's October 13, 1988 medical report to Dr. White indicated that appellant's left knee apparently had a meniscus problem in the past and was starting to buckle again. Dr. O'Connor noted that appellant was wearing a knee brace and that he would be seeing Dr. White soon for an evaluation. The medical treatment notes of Dan Depner, a physician's assistant, of Dr. O'Connor and covering the period October 13 through November 7, 1988 revealed the history of appellant's knee treatment and subsequent arthrogram. Mr. Depner stated that appellant's knee was doing much better after the arthrogram. In an October 24, 1988 medical report, Dr. White provided appellant's complaints and his findings on physical and objective examination. He recommended that appellant undergo an arthrogram. The October 25, 1988 medical report of Dr. Xavier J. Zielinski, a Board-certified radiologist, described appellant's arthrogram. Dr. Zielinski concluded that the arthrogram of the left knee was negative for evidence of meniscal, cruciate or collateral ligament injury, diagnosed degenerative articular thinning of the

¹ *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

lateral femoral condyle, moderate compartmental narrowing results, a three centimeter bubbly bones lesion and tibial metaphysis most consistent with a nonossifying fibroma.

Regarding appellant's June 20, 1994 employment injury, the record reveals the June 21, 1994 medical treatment notes of Mr. Depner, that were signed by Dr. O'Connor, indicating the history of the June 20, 1994 employment injury, that appellant had trauma of the left knee, but hopefully it was just some overuse and tendinitis and appellant's physical restrictions. His July 1, 1994 medical treatment notes, which were signed by Dr. O'Connor, indicated that appellant had returned to light-duty work, an unremarkable examination, that appellant had a sprain and tendinitis and that the left knee was doing better. In an August 16, 1994 medical report, Dr. White noted appellant's complaints, his findings on physical examination, a review of x-ray records, which showed significant degenerative changes in the patellofemoral and lateral compartments of the knee. Dr. White opined that this was responsible for appellant's current symptoms and recommended that appellant undergo conservative treatment. Mr. Depner's August 8, 1994 medical treatment notes which were signed by Dr. O'Connor revealed that appellant was experiencing pain in his left knee and noted a referral to Dr. White. Mr. Depner advised Dr. White in a letter of the same date that appellant was asked to see him due to recent problems with his left knee. An August 9, 1994 imaging report revealed fairly marked degenerative changes of the left knee and a benign appearing cystic area with sclerotic margins present in the proximal left tibia.

In a narrative statement, appellant provided a history of his June 20, 1994 employment injury, subsequent shoulder injury and medical treatment for both injuries. Appellant stated that his knee had become progressively worse, that his symptoms and pain had never subsided and continued since the date of injury. Appellant further stated that he was asymptomatic prior to the employment injury, that he had worked without any problems although there was radiological evidence of a degenerative condition and that there had been no other injury or event since the date of injury. However, the record reveals that appellant did experience left knee problems prior to his June 20, 1994 employment injury. Further, notwithstanding appellant's statement, the first medical treatment he received after the initial treatment of his left knee following his employment injury is provided in a May 9, 1996 medical report from Dr. W.R. Leachman, a Board-certified orthopedic surgeon. In this medical report, Dr. Leachman provided a history of the June 20, 1994 employment injury and noted that an August 1994 x-ray of appellant's left knee was normal and that he had not repeated the films since that time. He opined that appellant had pain with flexion and use of the knee. He further opined that appellant's knee seemed to have a little bit of laxity. Appellant submitted Dr. Leachman's June 12, 1996 medical report indicating a history of the June 20, 1994 employment injury and his findings on physical and objective examination. Dr. Leachman diagnosed severe osteoarthritis, lateral compartment and patellofemoral articulation of the left knee. Dr. Leachman's medical reports failed to address whether appellant's current knee condition was caused by the June 20, 1994 employment injury. Further, he failed to provide any bridging symptoms. Therefore, they are insufficient to establish appellant's burden.

Appellant also submitted Dr. O'Connor's July 29, 1996 report, providing a history of the June 20, 1994 employment injury and appellant's subsequent shoulder injury. Dr. O'Connor stated that appellant continued to be symptomatic with his left knee injury and that he was

unable to perform his regular duties. He opined that appellant was asymptomatic prior to his June 20, 1994 employment injury and that he was rendered symptomatic due to the employment injury on a more probable than not basis. He further opined that appellant continued to be symptomatic and that all his symptoms related to his left knee were due to the June 20, 1994 employment injury. Dr. O'Connor's opinion regarding the cause of appellant's current knee condition is not rationalized inasmuch as he failed to explain how or why appellant's current knee condition was related to the June 20, 1994 employment injury and he failed to explain how or why appellant's left knee condition was still apparent after 25 months. Therefore, his medical report is insufficient to establish appellant's burden.

Similarly, Dr. O'Connor's October 2, 1996 medical report failed to explain how or why appellant's current knee condition was caused by the June 20, 1994 employment injury and how or why appellant's current left knee condition was still apparent after 28 months. Dr. O'Connor provided a history of appellant's June 20, 1994 employment injury. He stated that appellant currently suffered from lateral compartment of patella femoral arthritis of the left knee and that he continued to have signs and symptoms of pain in his left knee that was due to the June 20, 1994 employment injury. Dr. O'Connor concluded that appellant continued to require a reduced work load and a brace due to his injury.

Further, Dr. Leachman's July 2, 1997 medical report indicated that appellant's arthritis predated the June 20, 1994 employment injury. He opined that appellant had permanent aggravation of the degenerative changes in his knee and that his knee was rendered symptomatic by the June 20, 1994 employment injury. Dr. Leachman explained that the impact appellant received to his knees when he had to "drop down hard" and to crawl for cover and through the compartments of the vehicle permanently aggravated his knees. He noted the duties of appellant's job and stated that appellant would not be able to perform these duties without a brace. He also stated that appellant required a sedentary job or one that did not have the same physical requirements as his firefighter position. Dr. Leachman failed to address whether appellant's current knee condition was caused by his June 20, 1994 employment injury.

Inasmuch as there is no rationalized medical evidence of record establishing that appellant sustained a recurrence of disability causally related to his June 20, 1994 employment injury, the Board finds that appellant has failed to satisfy his burden of proof.

The January 28, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
February 14, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member