U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM SEARS and DEPARTMENT OF AGRICULTURE, AGRICULTURAL RESEARCH SERVICE, Athens, GA

Docket No. 98-813; Submitted on the Record;
Issued January 6, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS, BRADLEY T. KNOTT

The issue is whether appellant has established that he sustained a knee injury in the performance of duty on March 1, 1995.

In the present case, appellant completed a notice of traumatic injury (Form CA-1) on March 1, 1995 alleging that he injured his left knee when tripped on a step coming in to his work site. The claim form indicates that there was no lost time and no medical expenses were claimed.[1] Appellant retired from federal employment in January 1997.

By decision dated June 18, 1997, the Office determined that fact of injury had not been established. The Office found that the evidence supported occurrence of the employment incident, but the medical evidence was insufficient to establish causal relationship with a diagnosed injury.

In a decision dated October 20, 1997, the Office denied modification of the denial of the claim.

The Board has reviewed the record and finds that appellant has not established a left knee injury causally related to a March 1, 1995 employment incident.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing that he or she sustained an injury while in the performance of duty.[3] In order to determine whether an employee actually sustained an injury in the performance of duty,

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[1] The Form CA-1 apparently was not sent to the Office of Workers' Compensation Programs until May 1997, after appellant had completed a notice of recurrence of disability (Form CA-2a).

[2] 5 U.S.C. §§ 8101-8193.

[3] *Melinda C. Epperly*, 45 ECAB 196, 198 (1993); *see also* 20 C.F.R. § 10.110(a).

the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury, and generally this can be established only by medical evidence.[4]

In this case, appellant alleged that on March 1, 1995 he twisted his knee when he tripped on a step as he was entering his work site. The Office accepted that such an incident occurred as alleged, however, the medical evidence is not sufficient to establish causal relationship with a diagnosed knee condition. The Board notes that the record does not contain any medical evidence contemporaneous with the March 1, 1995 incident. A form report (Form CA-20) dated December 11, 1996 from Dr. David W. Bacastow, an orthopedic surgeon, diagnosed osteoarthritis of the left knee and a torn meniscus of the left knee. Dr. Bacastow checked a box "yes" that the conditions were causally related to employment, but this is of little probative value without additional explanation or rationale.[5]

In a narrative report dated July 21, 1997, Dr. Bacastow indicated that he first treated appellant on September 5, 1996, noting that x-rays were consistent with medial and patellofemoral osteoarthritis. Dr. Bacastow stated that appellant underwent arthroscopic surgery and a partial medial meniscectomy on November 20, 1996, and on November 25, 1996 he told appellant that a twisting mechanism generally is the cause of a meniscus tear. Appellant then told Dr. Bacastow that he had a "twisting injury in March 1995 at work." Dr. Bacastow opined that "[appellant] did sustain a torn medial meniscus of the left knee as a result of his twisting injury coming up some steps at work in March of 1995." He also indicated that appellant had a preexisting arthritis that was further aggravated by the meniscal tear.

The probative value of this report is diminished by the lack of medical rationale and explanation for the opinion offered. The record indicates that there was a year and half between the employment incident and the treatment provided by Dr. Bacastow, with no evidence of bridging medical treatment. Dr. Bacastow does not fully explain why he believed the employment incident caused a meniscus tear, with reference to the factual and medical background presented in this case, nor does he explain the nature and extent of any aggravation of a preexisting arthritis. In order to establish causal relationship, a physician's opinion must be based on a complete factual and medical background, 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 activities.[6]

[4] *See John J. Carlone*, 41 ECAB 354, 357 (1989).

[5] *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

[6] *Gary L. Fowler*, 45 ECAB 365 (1994).

The Board finds that the medical evidence of record is not of sufficient probative value to meet appellant's burden of proof in this case.[7]

The decisions of the Office of Workers' Compensation Programs dated October 20 and June 18, 1997 are affirmed.

Dated, Washington, D.C.
January 6, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

[7] It appears that on appeal appellant submitted some medical evidence not previously of record; the Board can consider only the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).