

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES E. CLAVIN and U.S. POSTAL SERVICE,
POST OFFICE, Edison, NJ

*Docket No. 98-979; Submitted on the Record;
Issued January 11, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that he sustained an injury causally related to 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 he sustained an injury causally related to factors of his federal employment.

On February 21, 1997 appellant, then a 44-year-old letter carrier, filed a claim for an occupational disease (Form CA-2) alleging that on or about December 1980, he first became aware that his degenerative joint disease of his left knee was caused or aggravated by his federal employment. He noted that he first became aware of his condition on or about December 1970. Appellant began working for the employing establishment on November 26, 1977. Appellant's claim was accompanied by medical evidence from the Veterans Administration (VA) Hospital.

By letter dated March 28, 1997, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office also advised appellant to answer specific questions regarding his condition. In an undated response letter, appellant submitted factual evidence.

By letter dated March 28, 1997, the Office wrote to the Department of Veterans Affairs notifying them of appellant's claim for compensation and the information needed in order to make a proper determination on appellant's claim. Appellant was advised, within the letter, that the letter was intended to help assist him in obtaining medical evidence to decide his claim, but that he was responsible for ensuring that all requested information was provided.

By decision dated June 6, 1997, the Office found that the medical evidence of record was insufficient to establish that appellant sustained an injury causally related to factors of his federal

employment. By decisions dated August 5 and November 25, 1997, the Office denied appellant's request for modification based on a merit review of the claim.

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. The medical evidence required to establish 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, 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 factors identified by the claimant.¹

Appellant has failed to submit any rationalized medical evidence establishing that he sustained an injury causally related to factors of his federal employment. Appellant submitted a January 6, 1997 report from Dr. Kauffman, a VA physician, which diagnoses severe degenerative joint disease of the left knee. He stated appellant should avoid prolonged standing and walking permanently (no longer than 30 to 60 minutes at a time) and restricts him to lifting no more than 25 pounds at a time. Dr. Kauffman stated that those restrictions were permanent. This report, however, is insufficient to establish appellant's burden as Dr. Kauffman failed to provide a medically rationalized opinion as to whether and how appellant's condition was related to his employment duties rather than the original knee injury in 1970 or the natural progression of aging.

Copies of treatment notes from the Naval Regional Medical Center from 1974 to 1975 indicate that appellant underwent an arthroscopy of the left knee on December 5, 1974, and that he had degenerative arthritis and laxity in his anterior cruciate ligaments. These records merely document appellant's left knee problems and predate appellant's employment with the employing establishment.

Veterans Administration treatment records and disability notes from 1986 document that appellant underwent left knee arthroscopic debridement on August 8, 1996.

X-rays taken in 1986 and on April 11, 1988 were submitted into the record. Treatment notes from an orthopedic clinic contain annotations which mention a history of falling out of a truck in 1970 or refer to an injury in the navy.

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

A medical certificate from December 11, 1993 deals with appellant's emotional and adjustment problems as do the treating notes from that date. Later notes from April 28, 1995 mention both the knee and emotional problems, but only provide current examination findings. No history or explanation of the effects of employment on appellant's knee problem are included.

A note from the outpatient VA clinic confirms that appellant was seen on December 30, 1996 for various complaints, including his knee. No information relating to appellant's employment was included.

In a January 6, 1986 Form CA-17, Dr. David Altchek, a Board-certified orthopedic surgeon and appellant's treating physician, stated that appellant had underlying osteoarthritis of the left knee with ligament instability, and that appellant aggravated his knee by falling on the job. In a medical note dated November 5, 1986, Dr. Altchek stated that appellant's condition was aggravated by a twisting injury at work which occurred that day. In a February 12, 1986 note, Dr. Altchek stated that appellant has severe degenerative arthritis of the left knee secondary to long-standing ligamentous instability. He opined that appellant would be unable to work in an occupation that requires long periods of weight bearing or walking. However, Dr. Altchek did not provide a complete description of the alleged work injury and his opinion is not supported by medical rationale. Thus, Dr. Altchek's reports are insufficient to establish appellant's burden because they do not establish that appellant sustained an injury causally related to factors of his federal employment.

In a VA note dated April 21, 1986, the physician indicated that appellant was "fit for limited-duty injured on job -- now with restrictions and debility -- will eventually require surgery." This report, however, is insufficient to meet appellant's burden as the physician did not provide a firm diagnosis, a complete description of the injury or a rationalized medical opinion on the causal relationship between the claimed condition and factors of appellant's federal employment.

Although the Office advised appellant of the type of medical evidence needed to establish his claim, and the Department of Veterans Affairs informed appellant that they would only send photocopies of his medical records, without any rationalized opinion, appellant failed to submit medical evidence responsive to the Office's request. Consequently, appellant has not established that he sustained an injury causally related to factors of his federal employment.

The November 25, August 5 and June 6, 1997 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
January 11, 2000

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member