

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CAPURS JOHNSON and TENNESSEE VALLEY AUTHORITY,  
GALLATIN FOSSIL PLANT, Gallatin, TN

*Docket No. 99-817; Submitted on the Record;  
Issued July 14, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof to establish that he sustained an injury while in the performance of the duty.

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 while in the performance of the duty.

On July 24, 1997 appellant, then a 47-year-old gas and diesel foreman, filed a claim for an occupational disease (Form CA-2) alleging that he first became aware that his knee condition was caused or aggravated by his employment on June 5, 1997. He stopped work on June 13, 1997. Appellant's claim was accompanied by factual and medical evidence.

By letter dated September 19, 1997, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish his claim. The Office then advised appellant to submit medical evidence supportive of his claim. In response, appellant submitted additional medical evidence.

By decision dated December 4, 1997, the Office found the evidence of record insufficient to establish that appellant sustained an injury while in the performance of duty.<sup>1</sup>

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

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<sup>1</sup> On appeal appellant has submitted additional evidence. The Board, however, cannot consider evidence that was not before the Office at the time of the final decision; *see Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35 (1952); 20 C.F.R. § 501.2(c)(1).

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.<sup>2</sup> 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,<sup>3</sup> must be one of reasonable medical certainty<sup>4</sup> 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.<sup>5</sup>

In this case, appellant has failed to submit sufficient rationalized medical evidence establishing that he sustained an injury causally related to factors of his federal employment. In support of his claim, appellant submitted an April 1, 1997 operative report of Dr. Paul Abbey, a Board-certified orthopedic surgeon, regarding his right wrist surgery performed on March 31, 1997 and an aspiration of his right knee on April 2, 1997. His report fails to address whether appellant's right wrist or right knee conditions were caused by factors of his employment.

In further support of his claim, appellant submitted treatment notes covering the period May 20 through June 16, 1997 concerning his right knee. These treatment notes do not constitute competent medical evidence because they are not signed by a physician.<sup>6</sup>

Appellant also submitted a June 2, 1997 magnetic resonance imaging scan of his right knee from Dr. Lloyd Caudill, a Board-certified radiologist, revealing several diagnoses. His report, however, did not address whether the diagnosed conditions were caused by factors of appellant's employment.

Additionally, appellant submitted treatment notes covering the period June 5 through 25, 1997 from Dr. Thomas L. Gautsch, an orthopedic surgeon, regarding appellant's right knee condition, which included a history of gout in the right knee and surgery on the same knee. In his June 5, 1997 treatment notes, Dr. Gautsch stated that appellant's symptoms could be coming from gout and residual inflammation in the knee joint or they could be coming from the meniscus tear. In his June 12, 1997 treatment notes, Dr. Gautsch noted appellant's continued pain in the knee and discussed again with appellant the possibility of mechanical problems inside the knee that anatomically had given rise to his continued pain versus pain that was from residual

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<sup>2</sup> See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>3</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>4</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>5</sup> See *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>6</sup> *Jerre R. Rinehart*, 45 ECAB 518 (1994).

gout. Dr. Gautsch's treatment notes do not provide that appellant's right knee condition was caused by factors of his employment. Neither do they address the relationship between appellant's gout and an employment injury to his right knee.

Appellant submitted several disability certificates of a physician whose signature is illegible. An undated disability certificate revealed a diagnosis of right knee surgery. A July 2, 1997 disability certificate provided a diagnosis of status post knee arthroscopy/chondroplasty. A July 15, 1997 disability certificate indicated a diagnosis of status post right knee arthroscopy with a repair of a meniscal tear and gout. These disability certificates are insufficient to establish appellant's burden because they failed to discuss whether or how the diagnosed conditions were caused by factors of appellant's employment.<sup>7</sup>

Dr. Gautsch's July 15, 1997 treatment notes revealed that appellant could return to regular duty with regard to his knee. He did not address whether appellant's right knee condition was caused by factors of his employment.

Inasmuch as appellant has failed to submit rationalized medical evidence establishing that he sustained an injury while in the performance of duty, the Board finds that he has failed to satisfy his burden of proof in this case.

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

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

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

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<sup>7</sup> *Daniel Deparini*, 44 ECAB 657, 659 (1993).