

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVE REVOIR and U.S. POSTAL SERVICE,
POST OFFICE, Green Bay, WI

*Docket No. 00-2522 Submitted on the Record;
Issued July 27, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

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

On January 6, 1999 appellant, a 46-year-old letter carrier, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1). He alleged that, on January 5, 1999, he twisted his left knee when he entered the building. Appellant returned to light duty on January 7, 1999.

In progress notes from January 6 to 14, 1999, Dr. William Gustafson, a Board-certified family practitioner, noted that appellant had an exacerbation of left knee pain the prior day. Dr. Gustafson noted that appellant stated he was running at work when suddenly, his leg gave out on him. He indicated that appellant did not fall to the ground, but almost did. Dr. Gustafson indicated that appellant had swelling and difficulty straightening or flexing his knees. He assessed left knee pain, suspicious for a medial joint meniscal tear. Dr. Gustafson placed appellant on limited duty.

In a January 26, 1999 progress note, Dr. Errol R. Springer, a Board-certified orthopedic surgeon, noted appellant's chief complaint as left knee pain. Dr. Springer indicated that approximately three weeks prior, appellant was working as a mailman when his knee gave way and he almost fell. He indicated that appellant informed him this had happened in the past but not to the same degree. Dr. Springer indicated that appellant's left knee swelled up and he was unable to walk. Appellant was evaluated and placed on light duty by Dr. Heyerdahl. He indicated that appellant knew of no specific injury to his left knee but did note difficulties with recurrent giving away. Dr. Springer also noted a history of back pain, which was also a work-related injury. He opined that appellant had a probable patellofemoral tracking problem, possible medial meniscus tear of the left knee and a history of low back pain with a probable sciatic component.

In a February 12, 1999 report, Dr. Springer indicated that appellant was having significant difficulties with his lower back and numbness going down both legs, his left leg was worse than his right. He diagnosed patellofemoral pain in the left knee and a herniated nucleus pulposus which was probably causing sciatic symptoms.

In progress notes from March 5 to 23, 1999, Dr. Springer indicated that appellant had a small herniated disc at L5-S1.

In a March 5, 1999 disability certificate, Dr. Springer diagnosed herniated disc and left knee pain. He indicated that appellant could return to work with restrictions.

In an April 9, 1999 disability certificate, Dr. Springer indicated that appellant had back pain and was to remain on limited duty of sitting and sorting mail for 8 hours a day and 40 hours per week.

In an April 9, 1999 progress note, Dr. Springer indicated that appellant's left knee was doing well and he was not having significant problems with it. He noted that the second epidural steroid injection, helped appellant and now he has only occasional numbness in the right leg. Dr. Springer diagnosed chronic low back pain, improved with epidural steroid injections and a small bulging disc at L5-S1. He gave appellant a return to work note.

In a letter dated May 28, 1999, the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish his claim and requested that he submit such. Appellant was advised that submitting a rationalized statement from his physician addressing any causal relationship between his claimed injury and factors of his federal employment was crucial. Appellant was allotted 30 days to submit the requested evidence.

In a statement received by the Office on June 25, 1999 appellant indicated that he was walking when his left knee suddenly gave way. He indicated that he buckled but did not fall, caught himself and stood up. Appellant indicated that he tried walking, his knee was sore but he was able to walk. The next day, his knee was very stiff and sore. He indicated that, after an hour of standing and sorting mail, his knee became very sore and numb. Appellant reported the pain to his Post Master and requested examination by a physician. He reported that x-rays did not show any fracture and he was placed on light duty. Additionally, he stated that a magnetic resonance imaging did not show any ligament damage. Appellant stated that he had a previous work-related back injury which caused back pain on a daily basis.

In a decision dated July 27, 1999, the Office denied appellant's claim for compensation as he did not establish the fact of injury.

Appellant requested a review of the written record on August 13, 1999.

In a July 2, 1999 report, Dr. Springer indicated that he had treated appellant since January 6, 1999. He indicated that it was probable that appellant's back was the major contributing factor to his ongoing knee problems. Dr. Springer indicated that appellant's "giving way" episodes were probably related to patellofemoral pain syndrome, which was probably

exacerbated by his chronic low back symptoms. He indicated that the pain which appellant experienced from his low back caused his patella to become unbalanced and develop left knee pain, which developed into recurrent pain inhibition type giving way episodes. Dr. Springer noted that to a degree, appellant's knee symptoms were related to his back problems and he felt they should be treated as a work-related injury. Additionally, he noted that he did not feel that the work-related activities during a single shift were the only exacerbating event to his left knee symptoms. However, he did indicate that this was a long-standing problem related to his chronic low back symptoms.

By decision dated May 22, 2000, the hearing representative affirmed the July 27, 1999 decision.

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury."¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

In order to determine whether an employee actually sustained an injury in the performance of duty, 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.³

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁴

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

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *Elaine Pendleton*, *supra* note 1.

⁴ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁵

In the present case, the Office found that the January 5, 1999 incident occurred in the time, place and manner alleged, that appellant's left knee buckled while he was in the performance of duty.

However, the Board finds that appellant has not established that the January 5, 1999 incident resulted in an injury. Appellant submitted progress notes Dr. Gustafson from January 6 through 14, 1999. The notes did not express any opinion that the claimant's left knee condition was causally related to the January 5, 1999 incident or contain any medical rationale supporting such an opinion based upon a complete history.⁶ He also submitted a January 26, 1999 progress note from Dr. Springer. Although, Dr. Springer noted the history of injury, he did not offer any type of rationale explaining the nature of the causal relationship between the diagnosed condition and the January 5, 1999 employment incident.⁷ This report is also speculative in that Dr. Springer opined that appellant had a probable patellofemoral tracking problem and a possible medial meniscus tear and a history of low back pain with probable sciatic component. The Board has held that an opinion which is speculative in nature has limited probative value in determining the issue of causal relationship.⁸

Appellant submitted additional reports and certificates from Dr. Springer. None of these reports contained rationale explaining the nature of the relationship between the diagnosed condition and the January 5, 1999 incident.⁹ Dr. Springer in his July 2, 1999 report opined that it was probable that the cause of appellant's ongoing knee problems was his back. He also opined that the "giving way" episodes were probably related to patellofemoral pain syndrome, which was probably exacerbated by his chronic low back symptoms. These reports are speculative and are of limited probative value.¹⁰ Although, Dr. Springer opined that the work-related activities during a single shift were not the only exacerbating event to his left knee symptoms, he did not explain how appellant's left knee injury related to the accepted incident. Additionally, Dr. Springer did not differentiate between appellant's preexisting back condition or his knee condition to what degree if any he believed, that the employment incident caused or contributed

⁵ *James Mack*, 43 ECAB 321 (1991).

⁶ *Arlonia B. Taylor*, 44 ECAB 591 (1993).

⁷ *Id.*

⁸ *Arthur P. Vliet*, 31 ECAB 366 (1979).

⁹ *Id.*

¹⁰ *Id.*

to appellant's condition. Consequently, appellant's medical records fail to establish a causal relationship between the diagnosed condition and the employment incident of January 5, 1999. As appellant has not submitted the requisite medical evidence needed to establish his claim, he has failed to meet his burden of proof.

For the above-noted reasons, appellant has not established that he sustained an injury in the performance of duty.

The May 22, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
July 27, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member