

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIE TYSON, JR. and U.S. POSTAL SERVICE,
POST OFFICE, Stamford, CT

*Docket No. 00-1707; Submitted on the Record;
Issued June 11, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a left knee injury while in the performance of duty.

On February 3, 1999 appellant, then a 55-year-old supervisor, filed an occupational disease claim alleging that his left knee condition was employment related.

By letter dated February 22, 1999, the Office of Workers' Compensation Programs requested additional factual and medical evidence. The Office particularly advised appellant of the type of medical evidence needed to establish his claim.

Appellant submitted progress notes from Dr. Joseph M. D'Amico, a Board-certified orthopedic surgeon, from January 31, 1996 to December 8, 1998 and a narrative statement dated February 26, 1999. Dr. D'Amico noted that appellant underwent arthroscopy surgery on his left knee to repair a tear of the medial meniscus in January 1996. Dr. D'Amico's progress note dated December 8, 1998, related that appellant had a two-month history of progressive knee pain. Dr. D'Amico noted that appellant denied a recent injury to the left knee. He also noted that appellant had mild to moderate degenerative changes of the left knee. Appellant indicated that on December 1, 1998 he was moving mail containers and experienced pain in his left knee. Appellant sought medical treatment on December 8, 1998.

The employing establishment indicated that appellant's duties encompassed monitoring the flow of mail through the mail facility and did not require physical exertion.

In a decision dated March 24, 1999, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that appellant's condition was caused by an employment factor as required by the Federal Employees' Compensation Act.¹

¹ 5 U.S.C. §§ 8101-8193.

By letter dated March 29, 1999, appellant requested a hearing, which was held on August 19, 1999. Appellant testified that on December 1, 1998 he was moving mail carts and injured his left knee. Appellant added that as a supervisor he was not supposed to move mail carts but sometimes did to complete a mail count. Appellant indicated that his injury was due to the events of one work shift on December 1, 1998. Appellant related that on February 26, 1999 he underwent arthroscopy and partial medial meniscectomy on his left knee.

By decision dated January 6, 2000, the hearing representative affirmed the decision of the Office dated March 24, 1999.

The Board finds that appellant has failed to establish that he sustained a knee injury in the performance of duty.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or his 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.”² 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.³

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.⁴ In some traumatic injury cases this component can be established by an employee’s uncontroverted statement on the Form CA-1.⁵ An alleged work incident does not have to be confirmed by eyewitnesses in order to establish that an employee sustained an injury in the performance of duty, but the employee’s statement must be consistent with the surrounding facts and circumstances and his subsequent course of action.⁶

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

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Rex A. Lenk*, 35 ECAB 253, 255 (1983).

incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁷

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. 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.⁸

In this case, the medical evidence is insufficient to establish that moving mail containers on December 1, 1998 caused an injury to appellant's left knee. The March 29, 1999 report from Dr. D'Amico indicated that appellant was moving 600-pound mail containers while checking mail and experienced pain in the left knee. While he "felt this is a worker's compensation injury," he did not provide a specific and rationalized opinion on the causal relationship between appellant's employment and his diagnosed condition. Dr. D'Amico did not explain how and why specific activities would have caused or aggravated the claimed knee condition. Without any explanation or rationale for the conclusion reached, his report is insufficient to establish causal relationship.⁹

A rationalized medical opinion is particularly important in this case because the most contemporaneous medical evidence shows that there was no known traumatic injury to the left knee on December 1, 1998. Dr. D'Amico's medical records of the first treatment, on December 8, 1998 indicated that appellant "denies recent injury". He further noted that appellant had a "two-month history of progressive knee pain." Furthermore, the hospital admission records dated February 26, 1999 noted that appellant "denies specific trauma" to the left knee. Because Dr. D'Amico did not provide a complete and accurate history of the December 1, 1998 injury nor did a well-reasoned discussion explaining how he concluded that appellant's condition was causally related to his employment, his reports are insufficient to meet appellant's burden of proof.¹⁰

At the hearing appellant was asked to submit a rationalized medical opinion from Dr. D'Amico specifically addressing the relationship between appellant's left knee condition and employment factors.

⁷ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁸ *James Mack*, 43 ECAB 321 (1991).

⁹ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

¹⁰ See *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

In a September 2, 1999 letter, Dr. D'Amico indicated that appellant "had a new tear to the medial meniscus which was unrelated to his 1996 meniscal tear. The injury on December 8, 1998 caused his second new meniscal tear, which was unrelated to his previous injury."

This latest report indicated an injury occurring on December 8, 1998, but earlier reports indicated a date of injury of December 1, 1998 and a two-month history of progressive left knee pain. Dr. D'Amico did not provide any clarification regarding these conflicting reports.¹¹ Furthermore, he did not explain how the employment injury or appellant's work duties contributed to appellant's left knee condition or indicate why appellant's current condition was not attributable to degeneration or to a preexisting knee condition. Because appellant has failed to submit a rationalized medical opinion based on complete and accurate factual and medical backgrounds, he has failed to establish that his left knee condition was work related.¹²

The January 6, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
June 11, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

¹¹ *Id.*

¹² See *Margaret A. Donnelly*, 15 ECAB 40 (1963).