U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARLON MANWILL and U.S. POSTAL SERVICE,
POST OFFICE, Spokane, WA

Docket No. 00-742; Submitted on the Record;
Issued April 8, 2002

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 in establishing that he sustained an injury to his knee in the performance of duty.

On August 14, 1999 appellant, then a 53-year-old postal distribution clerk, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that on August 7, 1999 he stepped on the edge of a rubber mat and his left knee "popped." On the reverse of the form, appellant's supervisor indicated that appellant stopped work on August 12, 1999 and returned to work on August 13, 1999.[1]

Evidence of record included a duty status report, Form CA-17, signed by Dr. D. Lee Binnion, Board-certified in emergency medicine, dated August 14, 1999. Dr. Binnion indicated that appellant's injury occurred when appellant stepped backward, causing his left knee to "pop." He diagnosed a muscle strain and limited appellant's work activities to lifting and carrying items and sitting.

Appellant also submitted treatment notes from Dr. Greg Valceschini, a Board-certified family practitioner, dated August 19 and 26, 1999. Dr. Valceschini diagnosed appellant's condition as a knee strain and also allowed appellant to return to work, with restrictions.

Also submitted were statements from appellant's coworkers, dated August 14, 15 and 17 and September 19, 1999. These statements indicate that, when appellant filed the accident report at work, he indicated to each party that he was unsure if the August 6, 1999 work incident was the cause of his knee injury.

[1] Appellant's supervisor also indicated that appellant's injury occurred on August 6, 1999, not August 7, 1999, as appellant alleges.

By letter dated September 2, 1999, the Office of Workers' Compensation Programs requested further information, including a history of injury and medical findings with a rationalized medical opinion on the causal relation of appellant's condition.

Appellant submitted additional medical reports from Dr. Valceschini, dated August 17, 19 and 26 and September 9 and 21, 1999. On August 17, 1999 he noted that appellant injured his knee while at work, sustaining an internal rotation injury. Dr. Valceschini notes that appellant denies any prior injury to his left knee. The follow-up reports continue to diagnose a left knee strain. He also stated that appellant could return to work with no restriction after his September 21, 1999 visit.

By letter dated October 1, 1999, the Office again advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible for benefits under the Federal Employees' Compensation Act.[2] Appellant was requested to provide statement from any persons who witnessed appellant's injury or had immediate knowledge of it. Additionally, appellant was asked if he had any similar disability or symptoms before he sustained the alleged injury, or between the date of the injury and the date it was first reported. Further, appellant was to arrange for the submission of the chart notes from his emergency room visit.

Appellant submitted an emergency room report from Dr. Binnion dated August 18, 1999. He diagnosed a left knee quadriceps tendon strain. Dr. Binnion noted in the history of appellant's present illness an apparent injury a few weeks prior to the alleged work incident, in which appellant noted a "pull and a pop in his knee when he twisted it wrong." He also stated:

> "[E]xplained to the patient that [he] thinks he has a partial tear of his quadriceps tendon and that is why he heard the pop. There is no swelling or effusion at this time so I think he is probably going to do well. I have put him in a knee immobilizer and that has given him significant amount of relief from the aching. I am going to go ahead and let him go back to work. He can be sitting while at his job and I am just going to keep him sitting until he sees Dr. Valceschini…."

Appellant also submitted a radiology report from Dr. William T. Murray, a Board-certified radiologist, who opined that the x-ray revealed a 2.5mm ossicle adjacent to the superior margin lateral tibial spine, which he opined to be an old injury.

Appellant also submitted two witness statements, in which appellant's coworkers corroborate appellant's account of the incident, in which appellant's alleged injury occurred. Appellant also submitted a personal statement, in which he noted that he had no other injury to his knees.

By decision dated October 15, 1999, the Office denied appellant's claim. The Office found that, while appellant experienced the claimed incident, he failed to provide medical

[2] 5 U.S.C. §§ 8101-8103.

evidence sufficient to establish a relationship between the August 6, 1999 work incident and his medical condition.

The Board finds that this case is not in posture for decision and must be remanded for further evidentiary development.

An employee seeking benefits under the Act has the burden of establishing that 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 timely filed within the applicable time limitations period 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 employment injury.[3] These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

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.[5]

The second component is whether the employment incident caused a personal injury and generally can be only be established 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.[6]

In this case, there is no dispute that appellant is an employee or that he caught his foot on the edge of a rubber floor mat and nearly fell while at work. In all of the reports of record, the physicians indicated that appellant's condition was work related. There also is no medical evidence indicating that appellant's condition is not employment related.

Although the medical evidence submitted by appellant is not sufficiently rationalized to meet his burden of proof, the medical evidence of record raised an uncontroverted inference of causal relationship between appellant's knee condition and his specific employment duties and is sufficient to require further development of the case record by the Office.[7]

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[3] *Elaine Pendleton,* 40 ECAB 1143 (1989).

[4] *Daniel J. Overfield,* 42 ECAB 718, 721 (1991); *Victor J. Woodhams,* 41 ECAB 345 (1989).

[5] *Elaine Pendleton, supra* note 3.

[6] *See* 20 C.F.R. § 10.11(a); *John M. Tornello,* 35 ECAB 234 (1983).

[7] *Rebel L. Cantrell,* 44 ECAB 660 (1993); s*ee John J. Carlone,* 41 ECAB 354 (1989).

On remand, the Office should further develop the medical evidence by obtaining a rationalized medical opinion on whether appellant has a knee injury causally related to factors of his federal employment. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The October 15, 1999 decision of the Office of Workers' Compensation Programs is hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, DC
April 8, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member