

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HORACE ALEXANDER, JR. and U.S. POSTAL SERVICE,
POST OFFICE, Greer, SC

*Docket No. 00-1602; Submitted on the Record;
Issued April 2, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issue is whether appellant established that he sustained a work-related injury on January 10, 1998.

On July 21, 1999 appellant, then a 30-year-old distribution clerk, filed a claim for a traumatic injury alleging that he sustained an injury to his right knee on January 10, 1998, while in the performance of duty.¹

In a medical report dated January 14, 1998, Dr. Robert A. Dameron, a Board-certified orthopedic surgeon, who treated appellant that day, noted that appellant could not remember any specific injury to the knee. Dr. Dameron noted some knee swelling, "most of it seems to be synovial thickening with very little fluid."

In treatment notes dated March 4 and 19, 1999, Dr. Thomas B. Eison, a Board-certified orthopedic surgeon, noted appellant's complaints of knee pain and diagnosed severe chondromalacia of the patella, right worse than left. Dr. Eison made no determination regarding the cause of appellant's condition.

In a report dated May 20, 1999, Dr. Thomas B. Pace, a Board-certified orthopedic surgeon, related appellant's history of injury including his statement that he had been symptomatic with popping and grinding in his knees "as he has pushed a number of heavy objects, including some 400-pound carts." Dr. Pace made no reference to an alleged work-related incident.

In a report dated July 12, 1999, Dr. Anthony L. Mathis, appellant's treating podiatrist, noted that appellant's employment had added stress to his knees and feet. However, he did not specify any work-related incident.

¹ Appellant initially noted that his injury occurred on January 12, 1998. He later changed the date of injury to January 10, 1998.

In a report dated July 20, 1999, Dr. Pace stated that he had no opinion regarding whether appellant's knee injury was work related.

By letter dated September 7, 1999, the Office of Workers' Compensation Programs advised appellant of what kind of evidence he needed to establish his claim.

In a decision dated October 8, 1999, the Office denied appellant's claim.

By letter dated October 18, 1999, appellant requested reconsideration.

In a report dated September 23, 1999 and received by the Office on October 22, 1999, Dr. Pace stated that appellant injured his knee when he was pushing a 400-pound object. However, he did not describe the work-related incident nor note when the event occurred.

In a report dated October 5, 1999 and received by the Office on October 22, 1999, Dr. Pace stated that appellant's work-related injuries, as related by appellant, worsened his preexisting arthritic chondromalacia changes.

By decision dated January 5, 2000, the Office denied modification of appellant's request for reconsideration.

The Board finds that appellant has not sustained his burden of proof in establishing that he sustained a work-related injury on January 10, 1998.

An employee seeking benefits under the Federal Employees' Compensation Act² 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."³ 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.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 In some traumatic injury cases, this

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁵ *Elaine Pendleton*, *supra* note 3.

component can be established by an employee's uncontroverted statement on the Form CA-1.⁶ 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.⁷ A consistent history of the injury as reported on medical reports, to the claimant's supervisor and on the notice of injury, can also be evidence of the occurrence of the incident.⁸

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.⁹

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.¹⁰

In this case, appellant filed his claim more than a year and a half after the alleged incident. He initially stated that the injury occurred on January 12, 1998, then amended his claim to allege that the incident occurred on January 10, 1998. However, he provided no witnesses to the incident,¹¹ and provided no explanation regarding the passage of over 18 months from the date of the alleged incident to the date the employing establishment took receipt of his claim on July 26, 1999. Further, appellant presented no medical evidence that would support that a medical condition occurred on or about January 10, 1998 as a result of a work-related incident.¹² For example, in a January 14, 1998 report, prepared 4 days after appellant's alleged

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Rex A. Lenk*, 35 ECAB 253, 255 (1983).

⁸ *Id.* at 255-56.

⁹ See 20 C.F.R. § 10.115; *John M. Tornello*, 35 ECAB 234 (1983).

¹⁰ *James Mack*, 43 ECAB 321 (1991).

¹¹ Appellant's only witness recalled the event as having occurred on January 12, 1998.

¹² Appellant submitted several narratives in support of his claim, none of which explained his delay in filling his claim for over a year and a half. Although he alleged that he had contacted someone in the agency about his injury, that witness incorrectly noted that the incident occurred on January 12, 1998. A second witness did not provide factual testimony regarding the incident. The Board also notes that appellant was treated by several doctors in January 1998, but that the record does not reflect that he had submitted any medical bills to the Office during that time frame. Further, there is an unexplained gap in medical evidence from January 1998 to February 1999.

work-related injury, his physician, Dr. Dameron, noted that appellant related that he had no recollection of injuring his knee. In a March 1999 report, Dr. Mathis, appellant's treating podiatrist, noted appellant's complaints of knee pain but offered no opinion regarding the cause of his condition. In his May 20 and July 20, 1999 reports, Dr. Pace, a Board-certified orthopedic surgeon, failed to provide an explanation regarding the cause of appellant's right knee pain. He did state, however, in his July 20, 1999 report, that he had no opinion regarding the causal relationship between appellant's condition and his employment.

Inasmuch as appellant was unable to provide a consistent history of the injury as reported on medical reports, or to establish that he notified the employing establishment in a timely manner, the Board finds that the Office properly denied appellant's claim on the grounds that appellant failed to establish that the event occurred as alleged, and thus appellant failed to establish that he sustained a work-related injury on that date.

The decisions of the Office of Workers' Compensation Programs dated January 5, 2000 and October 8, 1999 are affirmed.

Dated, Washington, DC
April 2, 2002

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member