

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH P. LUKASZEK and U.S. POSTAL SERVICE,
PROCESSING & DISTRIBUTION CENTER, Washington, DC

*Docket No. 01-718; Submitted on the Record;
Issued January 2, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant established that he sustained an injury in the performance of duty on September 15, 1999.

On November 20, 1999 appellant, a 53-year-old maintenance mechanic, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that he sustained an injury to his left knee while in the performance of duty on September 15, 1999. Appellant described his injury as a torn medial meniscus, which he attributed to "bending, kneeling, crawling, stretching [and] climbing to do a mail check...." He ceased working September 27, 1999 and underwent arthroscopic surgery on December 29, 1999. Appellant was granted a disability retirement on May 30, 2000.

In a decision dated July 26, 2000, the Office of Workers' Compensation Programs denied appellant's claim on the basis that he failed to establish a causal relationship between his claimed left knee condition and the alleged injury of September 15, 1999.

On September 25, 2000 appellant requested reconsideration and submitted additional medical evidence. The Office reviewed the claim on the merits and in a decision dated December 21, 2000, denied modification of the prior decision dated July 26, 2000.

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on September 15, 2000.

In order to determine whether an employee sustained a traumatic 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 that must be considered in conjunction with one another. The first component to be established is that the employee

actually experienced the employment incident that is alleged to have occurred.¹ The second component is whether the employment incident caused a personal injury.²

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by his employment is sufficient to establish a causal relationship.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁵ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors.⁶

In the instant case, appellant failed to meet his burden of demonstrating that his claimed left knee condition was caused by his alleged employment activities on September 15, 1999. More than a year prior to his alleged injury, appellant was examined by Dr. John L. Albrigo, a Board-certified orthopedic surgeon. In a report dated July 22, 1998, Dr. Albrigo stated that appellant was referred for surgical consultation regarding complaints of left knee recurrent pain, swelling and insecurity of a chronic nature "over the past couple of years." He further indicated that there was "no specific history of trauma." Dr. Albrigo stated that he suspected appellant had a torn left medial meniscus. He next examined appellant 15 months later on October 21, 1999, and Dr. Albrigo again noted an impression of "[p]ossible tear, medial meniscus, left knee, versus degenerative arthritis." An October 28, 1999 magnetic resonance imaging scan confirmed the presence of a torn medial meniscus and Dr. Albrigo performed a partial medial meniscectomy on December 29, 1999. Following arthroscopic surgery, Dr. Albrigo released appellant to return to his full employment duties effective January 31, 2000.

Under cover letter dated June 29, 2000, Dr. Albrigo forwarded his records to the Office and explained that, upon reviewing his records, he found no documentation of a history of injury to appellant's left knee. Consequently, Dr. Albrigo stated that he could not "comment on any work incident that aggravated or caused the claimed injury."

The record also includes appellant's medical records from the Department of Veterans Affairs (VA). These records cover the period of August 1998 through August 1999 and pertain primarily to treatment appellant received for complaints of upper extremity pain. While the

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

² *John J. Caralone*, 41 ECAB 354 (1989).

³ *Robert G. Morris*, 48 ECAB 238, 239 (1996).

⁴ *Id.*

⁵ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *Id.*

records also included various references to complaints of knee pain, as this evidence predates appellant's alleged injury of September 15, 1999, it does not demonstrate a causal relationship between his claimed condition and his alleged employment injury. Appellant also provided VA medical records regarding an August 14, 2000 examination. These records note appellant's current complaints of left knee pain and include a history of arthroscopic surgery on December 29, 1999. The VA staff physician who examined appellant diagnosed, among other things, degenerative joint disease in both knees. These records, however, do not include a history of an employment injury on September 15, 1999.

Appellant also submitted records regarding his physical limitations from July 1999 through April 2000. However, the submissions from Drs. Joel L. Koslow and Thomas C. Lawford do not address the issue of causal relationship between appellant's claimed condition and his alleged employment injury of September 15, 1999.

The evidence of record does not establish a causal relationship between appellant's left knee condition and his alleged employment injury of September 15, 1999. As previously noted, Dr. Albrigo suspected that appellant had a torn medial meniscus more than a year prior to his alleged employment injury. Moreover, Dr. Albrigo stated that appellant's records did not reveal a history of injury to the left knee, and therefore, he declined to offer an opinion as to whether appellant's condition was employment related. The remainder of the record is silent as to the cause of appellant's claimed condition. As the record is devoid of any medical evidence demonstrating a causal relationship between appellant's left knee condition and his alleged employment injury on September 15, 1999, the Office properly denied compensation.

The December 21, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
January 2, 2002

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member