

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEVE R. DAMERON and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 02-419; Submitted on the Record;
Issued July 26, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant's right knee arthritis is causally related to his federal employment.

On July 18, 2000 appellant, then a 49-year-old pipefitter, filed an occupational disease claim asserting that his right knee condition was causally related to several injuries to his left knee, lower leg and ankle over his 19 years of employment.

Appellant sustained two previous employment injuries. On June 18, 1994 he suffered contusions to the left elbow and left thigh. On November 23, 1998 appellant suffered a left ankle sprain. He filed claims for other injuries, including injuries to his right knee, but these claims were denied.¹

To support his July 18, 2000 claim, appellant submitted a July 18, 2000 report from Dr. Lynn L. Staker, an orthopedic surgeon, who related that appellant twisted his right knee on August 1, 1994 while cutting into a foundation piece. The piece slipped and struck him. Appellant felt something pop and had pain and swelling in his right knee. When Dr. Staker saw him on September 2, 1994, appellant had moderate effusion, tenderness and possible anterior cruciate ligament laxity. X-rays showed some early degenerative spur formation and degenerative changes. A magnetic resonance imaging (MRI) scan showed no evidence of a torn meniscus. Appellant underwent arthroscopic examination in 1996 and was found to have degenerative changes and a torn meniscus, which was debrided. He continued with pain on and

¹ On September 7, 1994 appellant filed a claim asserting that he injured his right knee on a submarine while sawing foundation away from a bottle held by rigging equipment. His foot was resting on a hook value. When appellant finished cutting so that the riggers could move the bottle, the bottle slammed him against the bulkhead and his right knee "went snap." This apparently occurred on August 1, 1994. In a decision dated January 27, 1995, the Office of Workers' Compensation Programs rejected this claim for failure to establish fact of injury. Appellant failed to provide a statement clearly describing the work factors that contributed to his condition and failed to provide a medical report with a history of injury and diagnosis.

off since that time. Dr. Staker saw appellant multiple times and treated his right knee conservatively.

Positive findings included significant crepitation within the knee and some general tenderness. There was no effusion and range of motion was full. Dr. Staker reported significant degenerative irregularity and arthritic changes in the knee.

On the issue of causal relationship, Dr. Staker reported as follows:

“Regarding the relationship of this arthritic knee to the injury, there were definitely some preexisting degenerative changes within the knee prior to that injury in 1994, but he had been doing well with it and at the time of injury he was found to have some tear of the medial meniscus. Also that injury lit up and aggravated the situation and that has been accepted as on-the-job aggravation. Presently [appellant] still has problems with it. I do [not] think a total knee operation is indicated at this point. I think he [is] too young and there [is] still some more life in the knee, but it continues to give him trouble. Further arthroscopic debridement might be of some value to him.”

Appellant submitted documents from past claims to support the factors that contributed to his right knee condition, the history of the condition, prior problems, dates of onsets and medical treatment received. These documents included reports from Dr. Staker in 1995 and 1996 supporting that appellant’s right knee condition was the result of an on-the-job injury on August 1, 1994. Appellant submitted a chronology of events concerning his right knee injuries and a description of the physical requirements of his job.

Dr. Staker requested authorization for a December 19, 2000 right knee arthroscopy with debridement and partial meniscectomy.

The Office combined the records from appellant’s past claims.

In a decision dated January 25, 2001, the Office denied appellant’s claim on the grounds that the medical evidence was insufficient to establish that his condition was caused by an employment factor. The Office found that Dr. Staker’s July 18, 2000 report was insufficient because the injury to which he referred was not accepted. The Office advised that it could not readjudicate appellant’s previous claims, wherein decisions were rendered. If appellant wished to have these claims reconsidered or appealed, he needed to follow the appeal procedures outlined with each specific claim.

Appellant requested an oral hearing before an Office hearing representative. He submitted treatment notes from Dr. Staker recommending surgery on the right knee. At the hearing, which was held on August 28, 2001, appellant testified that his right knee difficulties began on August 1, 1994 when he was slammed into the bulkhead of a submarine and twisted his knee. Following the hearing, he submitted a September 19, 2001 treatment note from Dr. Staker, who diagnosed significant post-traumatic arthritis of the right knee, which was worsening. Dr. Staker noted that arthroscopic debridement seemed to help appellant several years earlier and might currently be a benefit to him. Basically, Dr. Staker reported that appellant had a knee that was becoming worn out from arthritis.

In a decision dated November 20, 2001, the hearing representative affirmed the denial of appellant's claim. The hearing representative explained that because past claims were not under consideration or at issue in the present case, the present case pertained only to work factors subsequent to May 3, 1995.² Although appellant had described his duties as a pipefitter, Dr. Staker did not describe or reference appellant's duties, nor did he provide a reasoned medical opinion on whether such duties materially aggravated appellant's right knee condition. Without an accurate history of the implicated employment factors and a reasoned medical explanation of how such factors materially worsened appellant's preexisting right knee condition, Dr. Staker's reports were insufficient to meet appellant's burden of proof.

The Board finds that the medical evidence is insufficient to establish that appellant's right knee arthritis is causally related to his federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.⁴

The Office does not dispute the duties that appellant performed as a pipefitter since May 3, 1995. The question for determination is whether these duties caused or aggravated appellant's right knee condition arthritis and the need for surgery.

Causal relationship is a medical issue⁵ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁶ must be one of reasonable medical certainty⁷ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁸

² On May 3, 1995 appellant filed an occupational disease claim asserting that his federal employment aggravated preexisting conditions in his knees. In a decision dated November 3, 1995, the Office denied this claim on the grounds that the history of injury was so inconsistent that it could not be determined how appellant sustained an injury to either knee. The Office found that the claim was further diminished because no medical reports provided a definitive diagnosis.

³ 5 U.S.C. §§ 8101-8193.

⁴ See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993).

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ See *William E. Enright*, 31 ECAB 426, 430 (1980).

To support his July 18, 2000 claim, appellant submitted a July 18, 2000 report from Dr. Staker, his attending orthopedic surgeon, who related the history of an injury on August 1, 1994, when appellant was thrown against the bulkhead of a submarine and twisted his right knee. He opined that this incident “lit up and aggravated” appellant’s preexisting degenerative changes. This opinion tends to support an employment-related right knee injury on August 1, 1994, but as the Office and hearing representative have correctly explained, a decision on this matter was previously rendered and cannot be readjudicated under the guise of a new claim.

Dr. Staker did not describe the duties that appellant performed as a pipefitter since May 3, 1995 and he offered no medical reasoning to explain how these particular duties caused or contributed to appellant’s right knee arthritis and the need for surgery. Because appellant has failed to submit such reasoned medical opinion evidence to establish the critical element of causal relationship, he has not met his burden of proof.

The November 20 and January 25, 2001 decisions of the Office of Workers’ Compensation Programs are affirmed.

Dated, Washington, DC
July 26, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member