

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELBERT BOLDEN and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, PA

*Docket No. 03-988; Submitted on the Record;
Issued August 7, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a left knee injury in the performance of duty causally related to factors of his federal employment.

On February 23, 2002 appellant, then a 56-year-old letter carrier filed a claim alleging that he sustained a left knee injury as a result of carrying a mailbag. Appellant indicated that he first became aware of his condition on December 16, 2001. Appellant did not stop work.

In a letter dated April 30, 2002, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish his claim and requested that he submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors.

In response to the Office's request appellant submitted a medical report from Dr. John T. Williams, Jr., a Board-certified orthopedist dated March 7, 2002; reports from Dr. Jonathan C. Hersch, an orthopedist, dated April 5 and 19, 2002; and reports from Dr. Gad G. Guttmann, a Board-certified orthopedist, dated April 26 to May 30, 2002. Dr. Williams report diagnosed appellant with moderate to severe bilateral osteoarthritis of the knees, with the left greater than the right. He indicated that appellant underwent arthroscopic debridement of both knees, with the right knee surgery occurring in 1995 and the left knee surgery in 1996. Dr. Williams noted that appellant's left knee was still symptomatic. Dr. Hersch's report of April 5, 2002 advised that appellant had left medial compartment arthritis and experienced pain with walking. He noted that appellant had surgery in 1996 which gave him pain relief until December 2001. Dr. Hersch's report of April 19, 2002 advised that appellant underwent his first knee injections for pain. Dr. Guttmann's reports of April 26 and May 2, 2002 noted that appellant underwent additional knee injections for pain. He noted that appellant worked as a letter carrier. Dr. Guttmann's diagnosed appellant with advanced degenerative osteoarthritis of his knees. He noted that appellant was working five hours per day and would hopefully progress up to eight

hours per day. Dr. Guttmann's note of May 30, 2003 diagnosed appellant with degenerative arthritic knee problems which were progressive.

In a decision dated June 26, 2002, the Office denied appellant's claim for compensation under the Federal Employees' Compensation Act.¹ The Office found that the medical evidence was not sufficient to establish that his medical condition was caused by employment factors.

By letter dated July 16, 2002, appellant requested a hearing before an Office hearing representative. On January 31, 2003 appellant's attorney indicated that he desired a review of the written record.

Appellant submitted new medical records from Dr. Williams dated January 24, 2002; a medical report from Dr. Guttmann dated July 12, 2002; and employing establishment dispensary records from June 11, 2002. Dr. Williams' report of January 24, 2002 diagnosed appellant with moderate to severe osteoarthritis of the left knee. He advised that appellant worked as a letter carrier and reported that he carried a satchel of mail on his back weighing 35 to 40 pounds and experienced pain, swelling and stiffness. Dr. Williams noted that these symptoms occurred frequently with all activities. He placed appellant on light duty. Dr. Guttmann's report of July 12, 2002 advised that appellant's left knee range of motion had improved; however, appellant was unable to do prolonged standing, walking, kneeling or stooping and noted that appellant desired to switch to a clerical position. The dispensary notes prepared by Dr. Lawrence Axelrod, a Board-certified family practitioner, dated June 11, 2002 noted appellant's history of bilateral osteoarthritis in the knees and diagnosed appellant with chronic degenerative joint disease of both knees. He indicated that appellant was unfit for duty as a letter carrier and set forth permanent work restrictions.

By decision dated February 5, 2003, a hearing representative affirmed the June 26, 2002 decision on the grounds that the medical evidence did not establish a causal relationship between appellant's knee condition and his employment activities.

The Board finds that appellant has failed to establish that he sustained an injury in the performance of duty, causally related to factors of his federal employment.

An employee seeking benefits under the 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 timely filed within the applicable time limitation 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 the employment injury.³ These are the essential elements of each and every

¹ 5 U.S.C. §§ 8101-8193.

² *Id.*

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. 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.⁵

In the instant case, it is not disputed that appellant has a left knee condition or that his job required him to walk and carry a mailbag. However, he has not submitted sufficient medical evidence to support that he has a left knee condition that has been caused or aggravated by specific employment factors or conditions. The Office advised appellant of the type of medical evidence needed to establish his claim. As noted above, it is essential that appellant, to establish his claim, submit medical evidence showing that the diagnosed condition is causally related to the employment factors.

Appellant submitted several reports from Dr. Williams dated January 24 and March 7, 2002 which noted that appellant underwent arthroscopic debridement of both knees in 1995 and 1996. He advised that appellant worked as a letter carrier and he reported that he carried a satchel of mail on his back weighing 35 to 40 pounds and experienced pain, swelling and stiffness in his left knee. However, Dr. Williams did not specifically provide his own opinion with regard to whether any employment activities may have caused or aggravated appellant's claimed left knee condition. Instead, he appeared to be repeating the work conditions as reported by appellant. To the extent that Dr. Williams' recitation of appellant's history could be construed as an opinion on causal relationship they are of little probative value as he did not provide any reasoning or rationale explaining how the employment activities may have caused or aggravated the left knee condition.⁶

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

⁶ *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

Likewise, the reports of Drs. Hersch and Guttmann are insufficient to establish appellant's claim because they do not provide a specific opinion, supported by medical reasoning, indicating that appellant's left knee condition was caused or aggravated by specific factors of his employment. Therefore, these reports are insufficient to meet appellant's burden of proof. Similarly, the evidence from Dr. Axelrod, an employing establishment physician, is insufficient to establish appellant's claim as he did not specifically support, with medical reasoning, that appellant had any left knee condition caused or aggravated by employment factors.

The remainder of the medical evidence fails to provide an opinion on the causal relationship between this incident and appellant's diagnosed condition. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

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 his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁷ Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence, and the Office therefore properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated February 5, 2003 is affirmed.

Dated, Washington, DC
August 7, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ See *Victor J. Woodhams*, *supra* note 4.