

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARK JOHNSON and U.S. POSTAL SERVICE,
POST OFFICE, Lubbock, TX

*Docket No. 03-813; Submitted on the Record;
Issued June 12, 2003*

DECISION and ORDER

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

The issue is whether appellant has established that he sustained a recurrence of disability beginning October 30, 2002 causally related to his accepted knee conditions.

On August 26, 1999 appellant, then a 40-year-old automation clerk/mail processor, filed a traumatic injury claim alleging that on March 29, 1999 he injured his right knee while sweeping letter bins and traying mail on racks. The Office of Workers' Compensation Programs accepted the claim for aggravation of preexisting right knee sprain and leg and aggravation of degenerative arthritis in the right knee. On July 26, 2002 the Office upgraded appellant's accepted claim to also include degenerative arthritis of the left knee. Appellant was appropriately paid compensation for temporary total disability and medical treatment was authorized.

The Office subsequently referred appellant to Dr. Chittur Ananthakrishnan, a Board-certified orthopedic surgeon, for an independent evaluation regarding the extent of his disability and impairment. In a report dated March 20, 2001, Dr. Ananthakrishnan determined that appellant could return to a light-duty position for four hours per day, which would not require standing or twisting of the knees but that would allow him to get up and move around. Appellant's physician, Dr. Jack Henry, a Board-certified orthopedic surgeon, disagreed with Dr. Ananthakrishnan's second opinion evaluation and appellant was thereafter referred for a referee examination with Dr. Richard Levy, also a Board-certified orthopedic surgeon. In a report dated November 16, 2001, Dr. Levy opined that appellant could return to work in a sedentary position for six hours per day with restrictions of no kneeling, squatting or standing for any period of time.

On August 5, 2002 appellant returned to work as a modified OCR operator, for six hours per day, which was a sedentary position offered to appellant by the employing establishment in order to accommodate his permanent work restrictions.

On November 5, 2002 appellant filed a notice of recurrence of disability claim asserting that he suffered a change in his accepted knee condition, namely that he sustained edema of the knees, which resulted in a recurrence of total disability beginning October 30, 2002 related to the original accepted injury.

By decision dated January 22, 2003, the Office denied appellant's recurrence of disability claim on the grounds that the medical evidence was insufficient to establish that the claimed recurrence resulted from the accepted work injury. The Office advised appellant that his entitlement to medical treatment was not affected by this decision.

The Board finds that appellant has not established that he sustained a recurrence of disability beginning October 30, 2002 causally related to his accepted knee conditions.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position, the employee can establish a claimed recurrence of total disability only through submitting sufficient evidence showing a change in the accepted condition or in the light-duty job requirements such that he or she can no longer perform the light-duty job.¹ If the claim for recurrence of disability is based on a worsening of the accepted condition, the claimant must submit rationalized medical evidence substantiating this deterioration and explaining how and why the condition continues to be related to the accepted injuries or other factors of federal employment.²

In this case, the Office accepted that appellant sustained an aggravation of a preexisting right knee sprain and aggravation of degenerative arthritis of the left and right knees attributed to the March 29, 1999 employment incident when he injured his right knee while sweeping letter bins and traying mail on racks. Following this injury, appellant was placed in a modified-duty OCR operator position with prescribed work restrictions. He was still working the modified position at the time of the alleged recurrence of total disability on October 30, 2002.

Appellant has not asserted a change in the nature and extent of his light-duty job requirements. Instead, he alleged a change in his accepted knee conditions, which he claimed totally disabled him from work beginning October 30, 2002. The Board finds, however, that appellant submitted insufficient medical evidence to establish such a change.

In support of his claim for a recurrence of total disability, appellant submitted x-ray findings dated November 22, 2002 and a December 19, 2002 report from appellant's treating physician, Dr. Henry. The November 22, 2002 diagnostic report noted upon three views of the left knee that appellant had some degenerative arthritic change with patellofemoral and medial compartmental joint space narrowing but no acute change. Since this medical evidence does not provide a physician's rationalized medical opinion explaining a causal relationship between appellant's March 29, 1999 accepted aggravation of right knee sprain and aggravation of degenerative arthritis of the left and right knees and the claimed recurrence commencing October 30, 2002, it is insufficient to establish the claim. Dr. Henry's December 19, 2002 report

¹ *Terry R. Hedman*, 38 ECAB 222 (1986).

² *Carl C. Graci*, 50 ECAB 557 (1999).

indicated that appellant was seen that day with continual locking, swelling and giving way of his knee on turning; recurrent pain on weight bearing and trouble with flexion and extension of his knee. He opined, "this has definitely gotten worse since August 2002 when the patient went back to work." He further opined, "this patient has reached maximum medical improvement. As far as I am concerned the percent of permanent physical impairment and loss of function that I gave him last year at 30 percent still holds relevant to the right lower extremity, but he is getting worse...." The Board notes that, although Dr. Henry indicated that appellant's knee condition was worsening, he did not provide medical rationale explaining how or why the worsening knee symptoms he discussed were related to the accepted aggravation of right knee sprain and degenerative arthritis of the left and right knees. Without such rationale, Dr. Henry's report is of little probative value in establishing causal relationship in this case.

As appellant submitted insufficient evidence substantiating a change in his light-duty position or an objective worsening of the accepted knee conditions beginning October 30, 2002, he has not met his burden of proof in establishing the claimed recurrence of disability.

The decision of the Office of Workers' Compensation Programs dated January 22, 2003 is affirmed.

Dated, Washington, DC
June 12, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member