

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DONALD T. HARRISON and U.S. POSTAL SERVICE,  
POST OFFICE, Blue Springs, MO

*Docket No. 03-195; Submitted on the Record;  
Issued May 9, 2003*

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DECISION and ORDER

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

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability causally related to his January 20, 1988 employment injury.

Appellant, a 45-year-old letter carrier, filed a notice of traumatic injury on January 20, 1988 alleging that he injured his left knee in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for fracture of the left patella on February 4, 1988. Appellant returned to full duty on February 18, 1988. The Office granted appellant a schedule award for a 35 percent permanent impairment of his left lower extremity on September 12, 1989.

Appellant filed a notice of recurrence of disability on May 24, 2001 alleging that he sustained a recurrence of disability on January 20, 2001 due to arthritis of both knees and both hands. In a letter dated July 16, 2001, the Office requested additional factual and medical evidence. By decision dated August 24, 2001, the Office denied appellant's claim finding that he failed to submit sufficient medical evidence to establish a causal relationship between his current condition and his 1988 employment injury.

Appellant requested an oral hearing on September 19, 2001 and testified at his oral hearing on May 20, 2002. By decision dated July 29, 2002, the hearing representative affirmed the Office's August 24, 2001 decision<sup>1</sup> finding that appellant had not submitted the necessary medical evidence to establish a causal relationship between his current condition and his accepted employment injury.<sup>2</sup>

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<sup>1</sup> The hearing representative specifically noted that his decision was limited to the issue of appellant's left knee arthritis and its relationship to his accepted employment injury in 1988. As this is the only final decision before the Board, the Board's jurisdiction is also limited to this issue. 20 C.F.R. §§ 501.2(c); 501.3(d)(2).

<sup>2</sup> On appeal to the Board, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not review the evidence for the first time on appeal. 20 C.F.R. § 501.2(c).

The Board finds that appellant failed to meet his burden of proof in establishing a causal relationship between his current condition and his 1988 employment injury.

Appellant has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between his recurrence of disability commencing January 20, 2001 and his January 20, 1988 employment injury.<sup>3</sup> This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>4</sup>

In support of his claim, appellant submitted a report dated May 3, 2001 from Dr. Sol H. Dubin, a Board-certified orthopedic surgeon, who noted that he had treated appellant for many years and diagnosed significant arthritis in appellant's knees and hands. He indicated that these conditions precluded appellant from performing heavy labor and recommended more sedentary work.

This report is not sufficient to meet appellant's burden of proof in establishing a causal relationship between his diagnosed condition of arthritis and his accepted employment injury of fracture of the left patella. Dr. Dubin did not offer any opinion on the cause of appellant's arthritis and did not mention his employment injury. Without a rationalized medical report explaining how and why appellant's 1988 employment injury, rather than any previously knee injury or age-related condition, resulted in appellant's current arthritis appellant has not met his burden of proof.

Appellant also submitted a series of treatment notes addressing his various physical conditions. The notes covered the period January 15 to June 27, 1997. These notes did not provide any medical opinion of the cause of appellant's conditions or the relationship to his federal employment.

Appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between his current condition and his employment injury and the Office properly denied his claim.

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<sup>3</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

<sup>4</sup> *See Nicolea Brusio*, 33 ECAB 1138, 1140 (1982).

The July 29, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
May 9, 2003

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member