

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAN E. CHANDLER and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, Fort Worth, TX

*Docket No. 03-2203: Submitted on the Record;
Issued November 10, 2003*

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 to establish that he sustained a left knee injury in the performance of duty.

On February 27, 2003 appellant, then a 45-year-old air traffic control specialist, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he sustained a left knee injury as a result of his federal employment and that he first became aware that it was caused or aggravated by his employment on February 17, 2003.¹ Appellant did not stop work.

In a letter dated March 7, 2003, the Office advised appellant of the additional factual and medical evidence needed to establish his claim and requested that he submit such. Appellant was specifically advised that submitting a rationalized statement from his physician addressing any causal relationship between his claimed injury and factors of his federal employment was crucial. By letter of the same date, the Office requested additional factual information from the employing establishment.

Appellant submitted a February 27, 2003 statement in which he described the symptoms, duties and events which he believed contributed to his condition. He indicated that, prior to his accepted claim for an accident on February 9, 2001, he had no problems with his left knee and, only after, did he begin to experience left knee symptoms as he had to use his left knee to compensate for the right knee injury.

¹ Appellant indicated that he had an accepted right knee injury under claim number 162014113. He indicated that as a result of the right knee injury, his left knee had to overcompensate and his left knee became injured due to overuse. The instant claim was adjudicated by the Office of Workers' Compensation Programs under file number 162052733.

In a March 6, 2003 report, Dr. Leland A. Winston, a Board-certified orthopedic surgeon, indicated that appellant had complaints of bilateral knee pain, with the left more than the right. He noted a history of injury to both knees which occurred while appellant was working as an aircraft controller at the employing establishment on February 9, 2001. Dr. Winston indicated that the injury involved an elevator accident in which the elevator did not slow down, and appellant was impacted at ground level, resulting in bilateral knee injuries, compression fractures of the spine and bilateral hernias. He indicated that appellant's current symptoms included his left knee giving way, "specifically with stairs and a history of popping and locking of the left knee." He noted no abnormality on the x-rays and a positive McMurray's of his left knee with medial joint line tenderness of both knees and normal ligament examinations. He opined that appellant had a possible left medial meniscus tear and requested a magnetic resonance imaging (MRI) scan of both knees.²

A March 23, 2003 MRI scan of the left knee, read by Dr. Arlene Marx, Board-certified in diagnostic radiology, demonstrated a small joint effusion with tears in all three components of the medial meniscus and a Grade II strain/mild partial tear of the anterior cruciate ligament (ACL). Dr. Marx noted that the posterior cruciate ligament was thickened indicating prior or chronic repetitive injury and there was an intrasubstance tear of the quadriceps tendon particularly affecting the vastus medialis, vastus lateralis, and rectus femoris components. Dr. Marx also noted a thickening of the semi-membranous tendon indicating prior or chronic repetitive injury.³

In a March 27, 2003 report, Dr. Winston noted that the MRI scan of the left knee revealed a healed meniscus tear, posterior horn, anterior horn and the body of the meniscus. Further, he noted a possible partial ACL injury. Dr. Winston diagnosed a left medial meniscus tear and recommended that appellant be scheduled for a left knee arthroscopy and partial medial meniscectomy.⁴

The Office subsequently received an April 1, 2003 request for arthroscopy and meniscectomy of the left knee and two April 2, 2003 statements wherein appellant provided additional information regarding his claim.

By decision dated April 7, 2003, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that the events occurred as alleged.⁵

On April 9, 2003 the employing establishment telefaxed a position description to the Office.

² The report was unsigned.

³ Dr. Marx also submitted a March 26, 2003 report of a right knee MRI scan.

⁴ The report was unsigned.

⁵ The Office also noted that the medical evidence provided did not contain the signature of the physician.

By letters dated April 21 and June 14, 2003, appellant requested reconsideration, and submitted an April 14, 2003 report, in which Dr. Winston described appellant's left knee injury as occurring when the elevator he was using impacted at ground level at a high rate of speed and resulted in significant injury of both knees, compression fractures of the spine and bilateral hernias. Dr. Winston opined that this was clearly a significant force that would cause damage to both knees and noted that appellant did not have any history of knee injury prior to or after February 9, 2001 and, therefore, his current knee problems, which included significant left knee pain consistent with a medial meniscus tear and strain of the ACL, as well as a right knee medial meniscus tear and partial tear of the ACL, were directly due to the injury which occurred on February 9, 2001. He recommended an arthroscopy addressing the medial meniscus tear in the left knee as well as an arthroscopy to address the medial meniscus tear in the right knee.

On July 10, 2003 the employing establishment forwarded a description of his physical-duty requirements and accommodations were included.⁶

By decision dated August 11, 2003, the Office denied modification of its April 7, 2003 decision. The Office further advised that appellant was alleging a consequential injury which needed to be developed under case No. 162014113.⁷

The Board finds that appellant has not met his burden of proof to establish that he sustained a left knee injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act⁸ has the burden of establishing the essential elements of his 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. These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁹

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an appellant 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

⁶ The employing establishment noted that appellant returned to work in July 2002, that he made no complaints of left knee pain until he filed his claim on February 27, 2003, and appellant had not been noted to be limping, in pain or discomfort.

⁷ Appellant was further advised that he should appeal the March 14, 2003 decision issued under file number 162014113 and file a Form CA-2a claiming a consequential left knee condition due to overuse because of his accepted right knee condition.

⁸ 5 U.S.C. §§ 8101-8193.

⁹ See *Gary J. Watling*, 52 ECAB 357 (2001).

employment factors identified by appellant 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.¹⁰ The medical evidence required to establish a causal relationship 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 appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of appellant, 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 appellant.¹¹

In this case, appellant has not submitted sufficient medical evidence indicating that his left knee conditions were causally related to his employment. Appellant provided several reports from his treating Board-certified orthopedic surgeon, Dr. Winston. The March 6 and 27, 2003 reports from Dr. Winston were unsigned and the Board has consistently held that unsigned medical reports are of no probative value.¹² Further, Dr. Winston provided a history of injury related to a separate claim that occurred on February 9, 2001 for which the Office accepted a back condition, hernia and right knee condition. The Office did not accept the claim for a left knee condition. In his April 14, 2003 report, Dr. Winston indicated that the left knee injury was directly due to the injury of February 9, 2001 and occurred at that time. His report was contradictory to appellant's statement because appellant alleged that his left knee condition resulted because he had to overcompensate for his right knee injury. Dr. Winston's report was supportive of a consequential injury and not an occupational disease, as he did not indicate that any employment factors, other than the February 9, 2001 employment injury, caused or contributed to appellant's left knee symptoms. For example, he did not indicate that the excessive stair climbing or extended sitting required by appellant's position caused his left leg symptoms to develop. While appellant also submitted a March 23, 2003 MRI scan from Dr. Marx, she did not provide a discussion of causal relationship, and the Board has long held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹³

The Board therefore finds that none of the reports provided by appellant included a rationalized opinion regarding the causal relationship between appellant's left knee condition and the factors of appellant's employment believed to have caused or contributed to such condition. As appellant did not submit medical evidence to establish that he sustained a left knee condition causally related to factors of employment, he has failed to meet his burden of proof.

¹⁰ *Solomon Polen*, 51 ECAB 341 (2000).

¹¹ *Leslie C. Moore*, 52 ECAB 132 (2000); *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

¹² *See Merton J. Sills*, 39 ECAB 572 (1988).

¹³ *Dennis Mascarenas*, 49 ECAB 215 (1997).

Lastly, the Board notes that Dr. Winston's opinion is generally supportive that appellant sustained a consequential left knee injury as a result of the February 9, 2001 employment injury. Appellant was, however, informed by the Office in its August 11, 2003 decision to file a CA-2a claim form for a consequential left knee injury under this claim.¹⁴

The August 11 and April 7, 2003 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
November 10, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

¹⁴ *Supra* note 7.