

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TRENA WILSON and U.S. POSTAL SERVICE,
POST OFFICE, Oakland, CA

*Docket No. 03-1366; Submitted on the Record;
Issued October 3, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant had any employment-related disability from November 11 through 15, 2001, from December 14 through 25, 2001 and after December 30, 2001 due to her accepted right knee strain.

On October 20, 2001 appellant, then a 32-year-old casual mail clerk, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she sustained an injury to her right leg as a result of her federal employment. Appellant noted that she was hit by some equipment while on duty by a career employee driving a jitney. She further noted: "The driver was hauling two [bulk mail carriers] and as she was driving the last bulk mail carriers hit a dolly and the dolly hit my leg." The employing establishment controverted the claim, indicating that appellant had returned to light-duty work with restrictions of no standing for long periods of time and no lifting of heavy objects.

Appellant submitted a note by Dr. Floyd Huen, an internist, indicating that she was seen on November 21, 2001 and that she could return to light duty. He indicated that it would be best if appellant had sitting tasks and no lifting work for two weeks. Dr. Huen also submitted an attending physician's report dated June 12, 2002, stating that appellant had a right-knee injury, which he believed was caused or aggravated by her employment. Appellant also submitted a report from Dr. Flavia Nobay, who indicated that she had a right medial knee ligament injury. Appellant also submitted progress notes from the Alameda County Medical Center.

By letter dated March 19, 2002, the Office of Workers' Compensation Programs determined that appellant's claim was one of a traumatic injury and accepted her claim for a right knee strain/sprain.

On June 27, 2002 appellant filed a claim for compensation commencing October 14, 2001. She submitted time loss worksheets indicating that she took leave without pay from November 11 through 15, 2001 and from December 14 through 25, 2001. The employing establishment indicated that appellant's employment terminated on December 29, 2001.

By letter dated July 10, 2002, the employing establishment controverted appellant's claim, arguing that the medical documentation did not support total disability. The employing establishment also noted that full-time work was available to appellant during the period claimed and that she worked eight hours a day (or approximately eight hours a day) until her termination on December 29, 2001.

By letter dated September 12, 2002, the Office requested that appellant submit further information in support of her claim.

On November 7, 2002 the Office referred appellant to Dr. Thomas Schmitz, a Board-certified orthopedic surgeon, for a second opinion examination. In a report dated December 3, 2002, he indicated that appellant's diagnosis was contusion of the right knee, rule out torn medial meniscus. He indicated that appellant could work an eight-hour day, but that she should limit squatting to two hours and should not lift more than 30 pounds. He recommended a magnetic resonance imaging (MRI) scan. An MRI scan taken December 16, 2002 was interpreted by Dr. Jody E. Balich, a Board-certified radiologist, as compatible with a very subtle tear of the inferior articular surface of the posterior horn of the medial meniscus. In a supplemental report dated December 17, 2002, Dr. Schmitz noted:

"I went over the [MRI] films myself. If there is a tear as mentioned, it is very subtle. It is right next to the capsular attachment which is an area that is usually not operated on and I do n[o]t envision [appellant's] need for surgery. She has good ligamentous findings in her medial collateral ligament which is of the site she was hurt was intact [sic]. The medial and lateral compartments are fine. The medial and lateral meniscus are fine.

"Therefore, I do not find anything that would stop her from returning to work as mentioned with the weight limit for one month, which would be February 14, 2003."

By decision dated March 6, 2003, the Office denied appellant's claim for disability compensation for the periods November 11 through 15, 2001, December 14 through 25, 2001 and after December 30, 2001, as the medical evidence in the file failed to establish that she was totally disabled for work.

The Board finds that appellant has not established that she had any employment-related disability for the periods November 11 through 15, 2001, December 4 through 25, 2001 or after December 30, 2001 due to her accepted injury.

Appellant sustained injury on October 14, 2001, accepted by the Office for a right knee strain. She filed a Form CA-7, claim for compensation for periods commencing November 11, 2001. As appellant sought compensation benefits under the Federal Employees'

Compensation Act¹ she has the burden of establishing that her disability for work for specific periods is causally related to the accepted employment injury.²

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 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.³

The Board finds that the medical evidence does not establish that appellant was disabled due to her work-related knee injury for the periods claimed. Dr. Huen indicated that appellant had a right knee injury that he believed was caused or aggravated by her employment and that she should be restricted to light duty for two weeks commencing November 21, 2001. However, he did not indicate that appellant was ever totally disabled due to her right knee injury. Similarly, Dr. Nobay did not indicate that appellant was totally disabled for the periods claimed. The medical reports of Dr. Schmitz also fail to establish appellant's total disability for the claimed periods. He first saw appellant on December 3, 2001. At that time Dr. Schmitz found that appellant could work an eight-hour day, although she should limit squatting and not lift more than 30 pounds. In a supplemental report dated December 17, 2002, Dr. Schmitz indicated that there was nothing limiting her from returning to full-time work with the weight limit. This medical evidence does not establish appellant's total disability for work. As none of the physician's reports established that appellant was totally disabled for the periods claimed, she has failed to meet her burden of proof in establishing disability for the aforementioned periods.

¹ 5 U.S.C. §§ 8101-8193.

² *Donald Leroy Ballard*, 40 ECB 649, 656 (1989).

³ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990).

The decision of the Office of Workers' Compensation Programs dated March 6, 2003 is hereby affirmed.

Dated, Washington, DC
October 3, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member