

**United States Department of Labor
Employees' Compensation Appeals Board**

ROBERT W. SMITH, Appellant)
and)
DEPARTMENT OF THE AIR FORCE,)
AIR TRAINING COMMAND,)
LACKLAND AIR FORCE BASE, TX,)
Employer)
)

Appearances *Case Submitted on the Record*
Robert W. Smith, pro se
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On September 12, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decision dated July 28, 2003, denying his recurrence of disability claim. The Board has jurisdiction to review the merits of his claim under 20 C.F.R. §§ 501.2(c) and 501.3.

ISSUE

The issue is whether appellant sustained disability commencing April 13, 2003 causally related to the February 4, 2003 employment injury.

FACTUAL HISTORY

The Office accepted appellant's claim for a left knee strain sustained on February 4, 2003. On April 22, 2003 he submitted a claim for compensation, Form CA-7, seeking to buy back leave from April 13, 2003 to April 17, 2000.

By letter dated June 17, 2003, the Office informed appellant that it had received his Form CA-7, in which he claimed disability from work beginning April 13, 2003. The Office noted that appellant returned to limited duty on February 4, 2003 and regular duty on March 12, 2003. The Office stated that additional evidence was required for him to establish his claim, including a narrative medical report from his attending physician describing the relationship between his ability to work and the accepted work-related condition.

In a report dated July 14, 2003, appellant's treating physician, Dr. Ronald W. Connor, a Board-certified orthopedic surgeon, stated that he first saw him in February 2003. He stated that appellant came to see him due to recurrent pain and catching in the left knee. Dr. Connor stated that he told appellant that he had severe injuries to the left knee in 1980 or 1981, due to a motorcycle accident and that he had a prior open reconstruction of the knee through medial and lateral incisions. He stated that appellant's knee pain had been exacerbated by his activities as an aircraft mechanic and that his job required a "great deal" of climbing ladders, stooping, squatting and kneeling. Dr. Connor stated that x-rays showed advanced degenerative changes of the knee and a magnetic resonance imaging (MRI) scan showed the absence of the anterior cruciate ligament and pronounced degenerative changes especially in the lateral compartment. He diagnosed post-traumatic arthritis in the left knee and stated that appellant's physical activities required in his work caused a progression of his condition, although they were not the original cause of the condition. Disability notes dated February 13, April 21 and March 6, 2003 from Dr. Connor stated that appellant could return to work with restrictions of no bending, stooping, squatting or climbing.

In a memorandum dated July 17, 2003, the Aerospace Repair Supervisor, Raulf Realme, stated that appellant was injured on February 4, 2003 and after an initial evaluation by Captain Rajesh Tuli at the Flight Medicine Lackland Air Force Base, was released to light duty with limited climbing and no climbing ladders. He noted that appellant sought private care with Dr. Connor, who released him to work with restrictions on February 13 and March 6, 2003.

In a statement dated July 16, 2003, appellant stated that he suffered an initial injury to his knee and had been on limited duty doing desk or office work since the injury. He stated that his knee condition had deteriorated rapidly to the point that he could no longer do any of the activities that he would normally do. Appellant stated that some of the damage to his knee came from working on aircraft for the last 20 years.

An MRI scan dated February 25, 2003, showed in part moderate effusion, attritional changed in the medial meniscus and degenerative arthritis most evidence in the lateral compartment.

By decision dated July 28, 2003, the Office denied the claim, stating that the evidence did not establish that appellant's disability for work beginning April 13, 2003 was due to the accepted injury.

LEGAL PRECEDENT

An individual who claims a recurrence of disability, due to an accepted employment-related injury, has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.¹ When an employee who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that she cannot perform such light duty.² As part of this burden, the employee must show a change in the nature and extent of the light-duty job requirements or a change in the nature and extent of the injury-related condition.³ 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 the employment injury and supports that conclusion with sound medical reasoning.⁴ An award of compensation may not be made on the basis of surmise, conjecture or speculation or an appellant's unsupported belief of causal relation.⁵

ANALYSIS

In this case, appellant did not show that there was a change in his job requirements and, therefore, did not establish that he sustained a recurrence of disability on that basis. He also, however, did not show a change in the nature of his accepted condition of knee sprain. In a July 14, 2003 report, Dr. Connor diagnosed post-traumatic arthritis in the left knee and stated that appellant's physical activities caused progression of his condition. He also stated that the x-rays and the MRI scan showed degenerative change of the knee and the MRI scan showed absence of the anterior cruciate ligament. Dr. Connor, however, did not provide a rationalized medical opinion, explaining whether appellant's disability commencing April 13, 2003 due to post-traumatic arthritis was causally related to the accepted condition of left knee strain. He noted that there was a

¹ *Dominic M. DeScala*, 37 ECAB 369 (1986); *Bobby Melton*, 33 ECAB 1305 (1982).

² *George DePasquale*, 39 ECAB 295, 304 (1987); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

³ *Id.*

⁴ See *Nicolea Bruso*, 33 ECAB 1138 (1982).

⁵ See *William S. Wright*, 45 ECAB 498, 503 (1994).

preexisting injury to the knee, but did not discuss how this contributed to the diagnosed degenerative changes found on examination. Dr. Connor did not provide an opinion explaining how the February 4, 2003 injury caused or contributed to the claimed period of disability, commencing on April 13, 2003. The Board has held that a medical opinion lacking in medical rationale is of diminished probative value.⁶ Appellant's July 16, 2003 statement, in which he stated that his knee condition had rapidly deteriorated and that he believed that some of the damage to his knees resulted from his work on aircraft the last 20 years does not cure the defect in the medical evidence.⁷ Appellant has, therefore, failed to establish his claim.

CONCLUSION

Appellant has presented insufficient medical evidence to establish that he sustained a recurrence of disability, commencing April 13, 2003 due to the February 4, 2003 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2003 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Issued: January 6, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁶ *Anne L. Billingsley*, 50 ECAB 210, 213 n.20 (1998).

⁷ Neither the fact that a condition became apparent during a period of employment nor the belief of a claimant that a condition was caused or aggravated by the employment is sufficient to establish causal relation. *See Donald E. Ewals*, 51 ECAB 428 (2000); *Ernest St. Pierre*, 51 ECAB 623 (2000).