

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

DAVID L. REID, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Greensboro, NC, Employer**

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**Docket No. 04-249
Issued: March 1, 2004**

Appearances:
David L. Reid, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

JURISDICTION

On November 4, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated June 10, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a bilateral knee condition in the performance of duty.

FACTUAL HISTORY

On October 14, 2002 appellant, then a 59-year-old mail handler, filed an occupational disease claim alleging that the continuous movement of pushing and pulling on concrete floors greatly contributed to his chronic pain in both knees. Appellant asserted that he first became aware of the claimed work-related condition on November 30, 1999. Appellant did not stop work.

Appellant submitted a narrative statement dated November 15, 2002 in support of the claim. Appellant also submitted a medical slip from Dr. Frank Aluisio, a Board-certified

orthopedic surgeon, dated May 22, 2000, which reflected a diagnosis of osteoarthritis in the lower leg, with symptoms beginning on November 30, 1999 and disabled appellant from work from January 14 through October 1, 2000 due to a total knee replacement.

In a letter dated February 12, 2003, the Office requested that appellant submit additional factual evidence including information regarding the job activities believed to have contributed to the claimed condition and his activities outside of his employment. The Office also requested medical evidence including a comprehensive report from his physician describing his medical condition and its cause. In response, appellant submitted two additional narrative statements dated February 18 and 19, 2003 regarding his job activities and claimed medical condition.

By decision dated March 19, 2003, the Office found that the claimed events occurred as alleged, but that appellant had not submitted sufficient medical evidence to establish that he sustained an injury due to the accepted employment factors.

On April 9, 2003 appellant with his union representative requested reconsideration of his claim and submitted two medical reports from Dr. Aluisio dated March 6 and 26, 2003. In the March 6, 2003 report, Dr. Aluisio indicated that appellant underwent bilateral knee replacement surgery in 2000 for severe osteoarthritis of both knees. He further stated, "The job description has been reviewed. The osteoarthritis is not caused, in and of itself, by work, but his particular type of work could definitely have aggravated his underlying condition and made it more symptomatic." In the March 26, 2003 report, Dr. Aluisio stated:

"I felt [appellant's] arthritic condition was aggravated by his job requirements. Specifically, his need for repetitive bending and squatting, lifting, pushing and pulling large heavy containers and walking on a concrete surface are all activities that may have worsened the symptoms of his arthritis. Again, these activities do not cause arthritis or do not necessarily cause it to worsen but can make it become more symptomatic."

By decision dated June 10, 2003, the Office denied appellant's reconsideration request after a review of the merits. The Office found that the record was still devoid of rationalized medical evidence sufficient to establish appellant's claim that his diagnosed bilateral arthritis in the knees was actually causally related to his work factors as a mail handler.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her 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.² These are the

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant 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 employment factors identified by the claimant 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. 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.⁴

ANALYSIS

In support of his claim that he sustained a bilateral arthritic knee condition in the performance of duty, appellant submitted medical documentation including reports from Dr. Aluisio, a Board-certified orthopedic surgeon, dated March 6 and 26, 2003. In his March 6, 2003 report, Dr. Aluisio diagnosed severe osteoarthritis of both knees and indicated that the osteoarthritis was not caused in and of itself by work but that appellant's particular type of work could have definitely aggravated the underlying condition or made it more symptomatic. In his March 26, 2003 report, Dr. Aluisio stated that he felt appellant's arthritic condition was aggravated by his job requirements of repetitive bending, squatting, lifting, pushing and pulling large heavy containers and walking on concrete surfaces. He then stated that the named activities do not cause arthritis or necessarily cause it to worsen but that it could make it become more symptomatic. These reports, however, do not contain rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁵ Dr. Aluisio's opinion was clear that the work factors had not caused the diagnosed condition but vague as to how the condition was actually aggravated by work factors. The physician did not explain exactly how appellant's bilateral arthritis condition was worsened by the specified repetitive employment factors claimed by appellant as required. For these reasons, appellant did not establish that he sustained a bilateral arthritic knee condition in the performance of duty.

³ See *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ See *Gary Fowler*, 45 ECAB 365 (1994).

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a bilateral arthritic knee condition in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the June 10, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 1, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member