

In a report dated October 9, 2002, Dr. John C. Erkkila, appellant's Board-certified orthopedic surgeon, reported that appellant recently jammed his right knee which caused pain, occasional swelling and limited mobility. He noted that the right knee had flexion of 120 degrees versus 145 degrees on the left. Dr. Erkkila reported retropatellar crepitus and slight effusion of the right knee. X-rays revealed severe tri-compartment arthritis of the right knee. Dr. Erkkila opined that appellant's "major symptoms are due to the arthritis in the knee, not the recent fall." He indicated that appellant was not a candidate for knee arthroplasty at that time and prescribed anti-inflammatories.

In a report dated June 25, 2003, Dr. Erkkila stated that appellant related three to four episodes of right knee locking and swelling since his last examination in October 2002. Upon examination, he noted right knee swelling and a palpable Baker's cyst, some varus-valgus play and a probable positive Lachman's test. Appellant's right knee mobility, peripheral pulses and neurovascular examinations were normal. Lateral x-rays revealed severe tri-compartmental arthritis and a "question of loose bodies" in the right knee. He stated that appellant's complaints were "not really of pain but are of catching and locking" of the right knee. Dr. Erkkila recommended surgical intervention to remove loose particles. In an attached report, Dr. Erkkila requested authorization for right knee arthroscopy and arthroplasty. The date of injury was noted as October 9, 2002.

On July 23, 2003 the Office indicated that, while the claim had been administratively handled to allow limited medical payments, the merits of the claim had not been considered formally. The Office requested appellant to submit a narrative medical report explaining whether the diagnosed condition was causally related to the claimed injury.¹ In a memorandum of a telephone call that same day, the Office advised Dr. Erkkila it was unable to authorize surgery as appellant's claim had not been accepted and the request for authorization for surgery was based on an underlying degenerative arthritis.

On August 18, 2003 appellant stated that he was climbing down from an eagle's nest on an isolated sea stack when rock footing gave way causing him to slide for about 10 feet when he came to a sudden stop causing him to twist his knee. He noted pain, swelling and limited mobility for five days at which time he resumed normal activities.

In an August 24, 2003 report, Dr. Erkkila stated that appellant had severe arthritis of the right knee but his symptoms are "catching and locking which, in my opinion, have come from the event discussed in the notes above." He stated the purpose of the requested surgery would be to remove loose bodies from the right knee which would prevent the catching and locking symptoms from recurring. Dr. Erkkila then diagnosed loose bodies in the right knee secondary to injury and nonwork-related degenerative arthritis.

¹ Pursuant to the Office's request, appellant submitted prior medical records including several from Dr. Richard V. Cronk, a Board-certified orthopedic surgeon, who performed right knee surgery on July 28, 1992 consisting of arthroscopy, a partial lateral meniscectomy, the removal of loose bodies, and chondral shaving. In a July 7, 1977 report, he noted advanced post-traumatic arthritis in the right knee and a torn left medial meniscus.

In a decision dated September 16, 2003, the Office denied appellant's claim for compensation on the grounds that the medical evidence did not establish a work-related medical condition caused by the June 16, 2002 incident.

LEGAL PRECEDENT

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.² The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.³ 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁴

ANALYSIS

The Office has accepted that appellant slid down a rocky sea stack while attempting to reach or climb down from an eagle's nest's on June 16, 2002, which caused swelling, pain and limited mobility in his right knee. However, the Office properly found that appellant did not establish that he sustained a medical condition for which compensation is claimed as a result of the June 16, 2002 incident.

In his initial claim, appellant alleged that he sustained a torn cartilage of his right knee as a result of an injury on June 16, 2002. None of the medical reports supported such an injury. In an October 9, 2002 report, Dr. Erkkila, appellant's Board-certified orthopedic surgeon, noted a familiarity with the June 16, 2002 incident but determined the knee conditions of pain, swelling and limited mobility were due to arthritis and specifically excluded the June 16, 2002 incident

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

³ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁴ *James Mack*, 43 ECAB 321 (1991).

from having any causal relationship to the symptoms. Therefore, this report is not sufficient to establish appellant's claim for an injury due to the accepted incident.

The Board notes that, although Dr. Erkkila subsequently stated in his August 24, 2003 report that appellant's right knee symptoms of "catching and locking" were caused by the June 16, 2002 incident, he did not explain why he changed his opinion from his October 9, 2002 report where he found appellant's symptoms were caused by his arthritis, nor did he provide a rationalized medical opinion in support of his new conclusion. Indeed, he noted in his June 25, 2003 report that the loose knee fragments were caused by arthritis. These reports do not establish that appellant's medical conditions were caused by the June 16, 2002 incident. Further, in his request for authorization for surgery, the doctor indicated that appellant's injury occurred on October 9, 2002 when the date of the incident was June 16, 2002.

The medical evidence in the record does not provide an opinion on the causal relationship between the June 16, 2002 incident and the medical conditions for which he was claiming compensation, including a finding of loose particles within the knee which required surgical removal. Further, the evidence does not include a consistent history of injury. Due to these deficits in the medical evidence, appellant failed to meet his burden of proof and the Office properly denied his claim.

CONCLUSION

Appellant did not submit sufficient medical opinion evidence to establish that the June 16, 2002 incident was sufficient to result in the conditions for which compensation was claimed. Therefore, appellant failed to meet his burden of proof and the Office properly denied his claim.

ORDER

IT IS HEREBY ORDERED THAT the September 16, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 20, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member