

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

WILLIAM L. SAMPLE, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Trenton, NJ, Employer**

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**Docket No. 05-161
Issued: March 23, 2005**

Appearances:
Thomas Uliase, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On October 18, 2004 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated July 15, 2004, which denied modification of a November 14, 2003 decision finding that his left knee condition was not causally related to his employment. 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 has met his burden of proof to establish that he sustained a left knee condition causally related to factors of his federal employment.

FACTUAL HISTORY

On September 5, 2003 appellant, then a 65-year-old letter carrier, filed an occupational disease claim alleging that on July 25, 2002 his left knee gave way while descending some steps. Appellant related that his left knee became painful about a month later and that the incident

caused a torn ligament and meniscus of the left knee. Appellant stopped work on January 10, 2003 returned on March 24, 2003 and stopped again on August 4, 2003.

Appellant submitted several reports and disability certificates from Dr. Todd Ryan, an attending osteopath. In a November 11, 2002 disability certificate, Dr. Ryan indicated that appellant could not perform excessive walking or heavy lifting. In a February 13, 2003 duty status report, Dr. Ryan diagnosed a meniscus tear, which would require surgery and advised that appellant could not return to regular duty. He prescribed restrictions which included no lifting over 40 pounds for 8 hours a day and no kneeling. Dr. Ryan checked a box "yes" indicating that the history of injury given by appellant corresponded to that listed on the form report. He also indicated that a "meniscus tear" was due to "injury." Dr. Ryan saw appellant on May 22, 2003, and placed appellant off work from June 3 to 5, 2003 for knee pain. In a June 11, 2003 disability certificate, Dr. Ryan advised that appellant should be placed on light duty with no prolonged walking/standing, no lifting over 20 pounds, and no climbing or crawling. In a July 9, 2003 disability certificate, Dr. Ryan indicated that appellant was scheduled for knee surgery and repeated his restrictions.

In a letter dated October 8, 2003, the Office advised appellant that the evidence submitted was insufficient to establish his claim and requested that he submit additional factual and medical evidence. The Office requested information regarding why his injury was not reported until November 12, 2002. A copy of the letter was also provided to the employing establishment.

On November 6, 2003 appellant explained that he did not fall or bump into anything with his left knee, but rather, "it just went limp" as he turned to deliver mail. He indicated that, at first, it did not hurt, so he did not seek medical attention or report it to his supervisor until it became bothersome approximately three weeks later. Appellant indicated that he then sought medical treatment, which resulted in surgery. He was placed on light duty in November 2002, underwent surgery on August 1, 2003, was off work until he returned on September 15, 2003, and was placed on limited duty.

By decision dated November 14, 2003, the Office denied appellant's claim, finding that the medical evidence was insufficient to establish that his condition was caused by the employment factor. The Office accepted that appellant performed the duties of a letter carrier and his reasons for the delay in reporting the injury and seeking medical treatment. However, the Office advised appellant that the medical evidence did not establish a medical condition arising from the claimed employment factors.

By letter dated March 30, 2004, appellant requested reconsideration and submitted numerous follow-up reports, disability certificates and progress notes from Dr. Ryan dated November 2002 to March 2004 and physical therapy notes. In addition, he submitted several diagnostic reports, including magnetic resonance imaging (MRI) scans dated June 11 and July 3, 2003. With the exception of reports from Dr. Ryan dated November 12, 2003 and March 18, 2004, these reports did not discuss or refer to an injury which occurred at work on July 25, 2002.

On November 12, 2002 Dr. Ryan indicated that appellant was seen in evaluation for his left knee and that appellant related that he was having pain since the summer which he initially tried to treat himself. He advised that, about a month earlier, appellant had a recurrence of pain. Dr. Ryan assessed a “probable medial meniscus tear of the left knee,” requested an MRI scan and placed appellant on light duty.

In a November 12, 2003 report, Dr. Ryan advised that he initially saw appellant on November 12, 2002 for complaints of left knee pain. He indicated that appellant at that time did not “report any specific injury” to him but that appellant related that he had pain a month prior to the November 12, 2002 examination and had a recurrence. Dr. Ryan assessed a medial meniscus tear and noted that, when appellant was seen in follow-up on December 5, 2002, the “MRI [scan] was positive for a medial meniscus tear with an intrarticular effusion and a popliteal cyst.” He noted appellant’s subsequent treatment and continued pain and advised that, after reviewing the options, appellant underwent an arthroscopy on January 10, 2003 and a repeat arthroscopy on August 1, 2003. Dr. Ryan opined that in “regards to whether this is a work-related injury, I feel that work definitely could have caused the meniscus tear; however, I do not have a mechanism as described in our initial evaluation. I do think this is related to his work-related injury.” He further opined that he believed the recurrence of appellant’s symptoms was “due to his return to work and I think is work related.” On March 18, 2004 Dr. Ryan provided an addendum to his November 12, 2003 report. Dr. Ryan advised that he was clarifying the recurrence of the injury. He indicated that appellant, “later, not on initial presentation,” reported that “there was an injury or about July 25[, 2002] which led to his symptoms and subsequent treatment.”

By decision dated July 15, 2004, the Office denied modification of the November 14, 2003 decision. The Office found that there was insufficient rationalized medical evidence to support that appellant’s condition was causally related to his federal employment.

LEGAL PRECEDENT

In order 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 diagnosed condition is causally related to the employment factors identified by the claimant.¹ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.²

To establish causal relationship, appellant must submit a physician’s report in which the physician reviews the factors of employment identified by appellant as causing his condition and,

¹ *Solomon Polen*, 51 ECAB 341 (2000); *see also Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Robert G. Morris*, 48 ECAB 238 (1996). A physician’s opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 1.

taking these factors into consideration as well as findings on examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion.³

ANALYSIS

It is not disputed that while working as a letter carrier appellant descended steps. The Board finds, however, that appellant has not submitted sufficient medical evidence to support that descending steps on July 25, 2002 caused or aggravated his diagnosed condition.

The most relevant reports in support of appellant's claim are reports from Dr. Ryan dated November 12, 2002, February 13, and November 12, 2003 and March 18, 2004.

In a November 12, 2002, report, Dr. Ryan noted that appellant was having pain since the summer and provided a diagnosis of a "probable medial meniscus tear of the left knee." However, there is no discussion of how his employment factors, including a requirement to walk up and down stairs in the course of his letter carrier route, could have caused or aggravated appellant's left knee condition. The report did not include a rationalized medical opinion explaining the cause of appellant's left knee pain.

In a February 13, 2003 duty status report, Dr. Ryan checked a box "yes" with regard to the history of injury. However, to the extent that this may be construed as supporting causal relationship, the checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.⁴

On November 12, 2003 Dr. Ryan indicated that appellant complained of left knee pain on November 12, 2002, but that he did not "report any specific injury" to him. Dr. Ryan assessed a medial meniscus tear as related by an MRI scan. Regarding whether the diagnosis would be considered a work-related injury, he opined that work "definitely could have caused the meniscus tear; however, he did not have a mechanism of injury. He opined that he thought the tear was related to appellant's work-related injury. However, he did not attribute the meniscus tear to the July 25, 2002 accepted incident or demonstrate a familiarity with appellant's duties on that date. In addition to not demonstrating a knowledge of the history of the claimed injury, a physician's opinion that the employment "could have caused" the injury is speculative in nature.⁵ On March 18, 2004 Dr. Ryan attempted to clarify that appellant later reported an injury on or about "July 25[, 2002]" which led to his symptoms and subsequent treatment." The Board notes that this addendum is vague, does not indicate a familiarity with any duties alleged to have caused or aggravated an injury, and contains no medical rationale to support the doctor's conclusion.

³ *Donald W. Long*, 41 ECAB 142, 146-47 (1989).

⁴ *Calvin E. King*, 51 ECAB 394 (2000); *Linda Thompson*, 51 ECAB 694 (2000).

⁵ See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value).

The record also contains numerous reports since November 2002. However, none of these reports contained any opinion on causal relationship.

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.⁶ To establish causal relationship, appellant must submit a physician's report in which the physician reviews what factors of employment identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed condition and present medical rationale in support of his opinion.⁷ Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a left knee condition causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 15, 2004 and November 14, 2003 are hereby affirmed.

Issued: March 23, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁶ *Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

⁷ *Gary J. Watling*, 52 ECAB 278 (2001).