

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

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**K.H., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Kansas City, MO, Employer**

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**Docket No. 06-1118  
Issued: August 15, 2006**

*Appearances:*  
*Houston Ford, Jr., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On April 12, 2006 appellant filed a timely appeal from Office of Workers' Compensation Programs' merit decisions dated June 2, 2005 and March 21, 2006 which denied his claim for an occupational disease. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue on appeal is whether appellant has met his burden of proof in establishing that he developed a left anterior meniscus tear while in the performance of duty.

**FACTUAL HISTORY**

On April 5, 2005 appellant, then a 47-year-old mail handler, filed an occupational disease claim alleging that he developed a left anterior meniscus tear while performing his work duties. He became aware of his condition on March 16, 2005. Appellant did not stop work.

In a letter dated April 26, 2005, the Office advised appellant of the factual and medical evidence needed to establish his claim. It requested that appellant submit a physician's reasoned

opinion addressing the causal relationship of his claimed condition to specific employment factors.

Appellant submitted a January 4, 2005 report from Dr. Thomas J. McCormack, a Board-certified orthopedic surgeon. Dr. McCormack noted treating appellant for left knee pain and that he worked with heavy machinery and was required to flex and extend his knee which caused swelling, catching and buckling over a four-month period. He noted that a magnetic resonance imaging (MRI) scan revealed a posterior horn medial meniscus tear of the left knee. Dr. McCormack diagnosed left knee medial meniscus tear and recommended arthroscopic surgery. Appellant also submitted a report from Dr. Tamara E. Crowell, an osteopath, dated March 17, 2005. Dr. Crowell treated him for intermittent left knee pain which started while he was at work. In a report dated March 30, 2005, she noted that appellant presented with continued left knee pain. Dr. Crowell indicated that an MRI scan of the left knee revealed a tear of the posterior horn of the medial meniscus. She diagnosed a meniscal tear of the left knee. Appellant submitted a narrative statement dated October 25, 2005, noting that he worked as an industrial equipment operator for two years and was required to repetitively turn causing his knees to deteriorate. He repeatedly stepped onto power tows, loaded containers and steered loads which weighed over 1,100 pounds.

In a decision dated June 2, 2005, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by his employment duties.

In a letter dated June 15, 2005, appellant requested an oral hearing before an Office hearing representative. The hearing was held on January 24, 2006.

By decision dated March 21, 2006, the hearing representative affirmed the June 2, 2005 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act 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 the 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>1</sup>

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) 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

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<sup>1</sup> Gary J. Watling, 52 ECAB 357 (2001).

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 claimant. The medical evidence required to establish causal relationship is generally 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.<sup>2</sup>

### ANALYSIS

It is not disputed that appellant's duties as a mail handler/equipment operator included repeatedly stepping onto a tug, bending, lifting, pushing and steering equipment. It is also not disputed that appellant was diagnosed with a left knee medial meniscus tear. The Board finds, however, that appellant has not submitted sufficient medical evidence to support his left knee medial meniscus tear is causally related to the implicated employment factors.

Appellant submitted a report from Dr. McCormack. On January 4, 2005 Dr. McCormack treated appellant for left knee pain and diagnosed left knee medial meniscus tear. He reported that appellant worked with heavy machinery and was required to flex and extend his knee which caused swelling, catching and buckling over a four-month period. However, Dr. McCormack merely repeated the history of injury as reported by appellant. He did not provide an opinion addressing how appellant's work duties as a mail handler would cause or contribute to the diagnosed torn meniscus of the left knee. The medical history is incomplete as to any prior injury or trauma to the left knee. Dr. McCormack failed to provide a rationalized opinion regarding the causal relationship between appellant's left knee condition and the factors of employment believed to have caused or contributed to such condition.<sup>3</sup> Therefore, this report is insufficient to meet appellant's burden of proof.

Appellant also submitted reports from Dr. Crowell dated March 17 and 30, 2005. Dr. Crowell treated appellant for intermittent left knee pain which apparently started while he was working. She diagnosed a meniscal tear of the left knee. However, Dr. Crowell failed to provide a history of injury or a rationalized opinion regarding the causal relationship between appellant's left knee condition and the factors of employment believed to have caused or contributed to such condition.<sup>4</sup> Therefore, these reports are insufficient to meet appellant's burden of proof.

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<sup>2</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>3</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>4</sup> *Id.*

The remainder of the medical evidence, including an MRI scan of the left knee, fail to provide any opinion on the causal relationship between appellant's job and his diagnosed left anterior meniscus tear. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>5</sup> Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence, and the Office therefore properly denied appellant's claim for compensation.

### **CONCLUSION**

The Board therefore finds that, as none of the medical reports provided an opinion that appellant developed an employment-related injury in the performance of duty, appellant failed to meet his burden of proof.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 21, 2006 and June 2, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 15, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>5</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).