

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

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**SHIRLEY JAYNES, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Toledo, OH, Employer**

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**Docket No. 05-1741  
Issued: February 8, 2006**

*Appearances:*  
*Shirley Jaynes, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On August 22, 2005 appellant filed a timely appeal from an Office of Workers' Compensation Programs' May 19, 2005 merit decision denying her occupational disease claim. Under 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 her burden of proof in establishing that she sustained a knee condition in the performance of duty.

**FACTUAL HISTORY**

This is the second appeal before the Board. By decision issued October 12, 2004, the Board affirmed the decision of the Office dated April 15, 2004, finding that appellant had failed to establish that her claimed medical condition was causally related to her employment. The law and the facts of the case as set forth in the Board's October 12, 2004 decision are hereby incorporated by reference.<sup>1</sup>

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<sup>1</sup> Docket No. 04-1756 (issued October 12, 2004).

Appellant, a 55-year-old window clerk, filed a Form CA-2 claim for benefits on January 23, 2004 alleging that on January 15, 2002 she became aware that she had a degenerative condition in her right and left knees which she attributed to factors of her employment.

In a report dated March 30, 2002, Dr. Gregory M. Georgiadis, a Board-certified orthopedic surgeon, stated that appellant had complaints of pain in her right knee which she attributed to lifting heavy objects at work. He noted that a magnetic resonance imaging scan showed some medial joint line narrowing and degenerative changes in the medial compartment, as well as in the patellofemoral joint. Dr. Georgiadis advised that the lateral compartment showed very mild arthritis and that the patellofemoral joint appeared to have osteoarthritis. He diagnosed right knee osteoarthritis versus osteonecrosis of the medial compartment.

In a report dated November 7, 2002, Dr. Georgiadis reiterated his previous findings and conclusions. In a May 18, 2003 report, the physician indicated that appellant had bilateral knee pain which had been relatively constant and was possibly getting worse. Dr. Georgiadis stated that appellant had received cortisone injections and physical therapy, which had failed to provide her with any relief from her symptoms. Physical examination revealed a free range of motion with flexion and extension. Dr. Georgiadis diagnosed severe degenerative joint disease of the knees, bilaterally.

Appellant also submitted several form reports from a physical therapist at the Heartland Rehabilitation Services dated January through March 2002.

By letter dated February 23, 2004, the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition and an opinion as to whether her claimed conditions were causally related to her federal employment. Appellant did not submit any additional medical evidence.

By decision dated April 15, 2004, the Office denied appellant's claim, finding that she had failed to submit sufficient medical evidence to establish that she had sustained a bilateral osteoarthritis knee condition in the performance of duty.

On July 6, 2004 appellant filed an appeal to the Board from the Office's April 15, 2004 decision. By decision dated October 12, 2004, the Board affirmed the Office's denial of appellant's claim, finding that appellant had failed to establish that her claimed condition was sustained in the performance of duty.

Appellant filed an undated request for reconsideration that was received by the Office on April 1, 2005. She submitted a March 25, 2005 letter from Dr. Georgiadis, who stated that appellant had a history of preexisting osteoarthritis of both knees, but had been functioning well on the job until she sustained an injury at work on January 15, 2002 while pushing a small gurney. Ever since the January 15, 2002 injury, appellant had experienced debilitating pain in her right knee and opined that her preexisting knee osteoarthritis was exacerbated by that "fall."

He further stated that, “although she may have come to surgery for her knee anyway (*i.e.*, at some future time, perhaps after retirement), her accident caused her to have [a surgical] procedure at this time.”

In a June 29, 2004 report, Dr. Georgiadis stated that appellant had medial compartmental arthritis of the right knee. He indicated that she had originally injured herself by lifting “some type of heavy object at work.” Dr. Georgiadis opined that appellant’s preexisting medial compartmental arthritis of her knees was greatly aggravated by two traumatic episodes, including the January 15, 2002 incident and “some type of motor vehicle accident early in 2004.”

In a merit decision dated May 19, 2005, the Office found that appellant failed to establish that her knee condition was caused or exacerbated by work factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden of establishing the essential elements of her claim, including the fact that an injury was sustained in the performance of duty as alleged,<sup>3</sup> and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</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) a factual statement identifying the 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.<sup>5</sup>

Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician’s rationalized opinion on whether there is a causal relationship between the claimant’s diagnosed condition and the established incident or factor of employment. The opinion 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 established incident or factor of employment.<sup>6</sup>

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<sup>2</sup> 5U.S.C. §§ 8101-8193.

<sup>3</sup> *Joseph W. Kripp*, 55 ECAB \_\_\_\_ (Docket No. 03-1814, issued October 3, 2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). “When an employee claims that he sustained injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.” *See also* 5 U.S.C. § 8101(5) (“injury” defined); 20 C.F.R. § 10.5(q) and (ee) (2002) (“Occupational disease or Illness” and “Traumatic injury” defined).

<sup>4</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

<sup>5</sup> *Michael R. Shaffer*, 55 ECAB \_\_\_\_ (Docket No. 04-233, issued March 12, 2004). *See also Solomon Polen*, 51 ECAB 341, 343 (2000).

<sup>6</sup> *John W. Montoya*, 54 ECAB 306 (2003).

Medical conclusions unsupported by rationale are of little probative value.<sup>7</sup> An award of compensation cannot be made on the basis of surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has failed to submit sufficient medical evidence providing a rationalized opinion which relates her claimed knee condition to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim that this condition was caused or aggravated in the performance of duty.

Appellant submitted a March 25, 2005 letter from Dr. Georgiadis, who stated that appellant had a history of preexisting osteoarthritis of both knees and had been functioning well on the job until she sustained an injury at work on January 15, 2002 while pushing a small gurney. He indicated that, ever since the January 15, 2002 injury, appellant had experienced debilitating pain in her right knee and opined that her preexisting knee osteoarthritis was exacerbated by that fall. Dr. Georgiadis further stated that "although she may have come to surgery for her knee anyway (*i.e.*, at some future time, perhaps after retirement), her accident caused her to have [a surgical] procedure at this time." The Board finds that Dr. Georgiadis' report is of diminished probative value in that it does not contain adequate medical rationale explaining how or why appellant's bilateral osteoarthritis knee condition was caused or aggravated by the factors of her employment.<sup>9</sup> Appellant attributed her condition to an accumulation of work-related factors experienced over a 30-year period. However, Dr. Georgiadis did not address appellant's employment activities or explain how they would have caused or contributed to her bilateral knee condition. Rather, he noted a history of a fall at work. For the first time in his March 25, 2005 report, Dr. Georgiadis opined that the January 15, 2002 work injury exacerbated her preexisting knee osteoarthritis. However, he did not describe the "injury" or explain how it contributed to her condition. Moreover, his opinion was vague and was not rendered to a reasonable degree of medical certainty.<sup>10</sup>

Dr. Georgiadis' June 29, 2004 report also lacks probative value in that it fails to establish a clear connection between appellant's condition and factors of employment, and is inconsistent with the evidence of record. Dr. Georgiadis indicated that appellant had originally injured herself by lifting "some type of heavy object at work." There is no other evidence of record supporting such an injury, nor did appellant make such an allegation. Dr. Georgiadis opined that appellant's preexisting arthritis was aggravated by the January 15, 2002 incident and "some type of motor vehicle accident early in 2004. Having provided no explanation as to the effects of the January 2002 incident, Dr. Georgiadis noted alternative histories of lifting and a motor vehicle

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<sup>7</sup> *Willa M. Frazier*, 55 ECAB \_\_\_\_ (Docket No. 04-120, issued March 11, 2004).

<sup>8</sup> *John D. Jackson*, 55 ECAB \_\_\_\_ (Docket No. 03-2281, issued April 8, 2004); *see also Michael E. Smith*, 50 ECAB 313, 317 (1999).

<sup>9</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>10</sup> *See Ricky S. Storms*, 52 ECAB 349 (2001).

accident. Dr. Georgiadis gave no explanation as to how her current diagnosed bilateral knee condition is related to her originally diagnosed right knee condition.

The weight of the medical opinion is determined by the thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, and the quality of analysis expressed in support of stated conclusions.<sup>11</sup> Dr. Georgiadis did not sufficiently describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the claimed condition. His reports noted histories of injury to the knees that do not comport with the evidence of record. He did not provide sufficient medical rationale to establish that appellant's claimed knee condition was causally related to her employment.

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 her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>12</sup> Causal relationship must be established by rationalized medical opinion evidence, and appellant failed to submit such evidence.

The Board finds that appellant has not met her burden of proof in establishing that her claimed degenerative knee condition was causally related to her employment. The Board, therefore, affirms the Office's May 19, 2005 decision denying benefits for appellant's claimed knee condition.

### **CONCLUSION**

The Board finds that appellant has failed to meet her burden of proof to establish that her claimed knee condition was sustained in the performance of duty.

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<sup>11</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>12</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 19, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 8, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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