

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

---

<b>ERA J. KING, Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 06-1022</b>
	)	<b>Issued: July 25, 2006</b>
<b>U.S. POSTAL SERVICE, POST OFFICE, Compton, CA, Employer</b>	)	
	)	

---

<i>Appearances:</i> Era J. King, <i>pro se</i> Office of Solicitor, for the Director	<i>Case Submitted on the Record</i>
--------------------------------------------------------------------------------------------	-------------------------------------

**DECISION AND ORDER**

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

**JURISDICTION**

On March 30, 2006 appellant filed a timely appeal from the August 31, 2005 and February 14, 2006 merit decisions of the Office of Workers' Compensation Programs, which denied her claim that she sustained an injury in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of her claim.

**ISSUE**

The issue is whether appellant sustained an injury in the performance of duty, as alleged.

**FACTUAL HISTORY**

On June 20, 2005 appellant, then a 55-year-old mail processing clerk, filed a claim alleging that she sustained a recurrence of her August 27, 2004 employment injury, which she stated never resolved. A January 13, 2005 report from Dr. Frank B. Giacobetti, her orthopedic surgeon, stated that appellant presented that day with left knee pain worsening with squatting and kneeling. He stated that a December 21, 2004 magnetic resonance imaging (MRI) scan of the left knee was consistent with a tear of the posterior horn of the lateral meniscus and degenerative

changes of the posterior horn of the medial meniscus. He diagnosed left knee lateral meniscus tear with possible medial meniscus tear and offered his treatment plan:

“At this time due to her recurrent pain and failure to respond to conservative treatment in the form of physical therapy, anti-inflammatory medications and positive MRI [scan] findings of a tear of the meniscus will be to obtain authorization for knee surgery in the form of [l]eft knee arthroscopy with partial meniscectomy with debridement as necessary. This procedure can be done on an outpatient basis with recovery time to modified duty, if available in two to three weeks and to full duty in six to eight weeks. The patient is six months post injury and still having significant pain and difficult squatting/kneeling.”

The Office received a copy of the December 21, 2004 MRI scan.

On July 22, 2005 the Office noted that appellant’s previous injury was accepted for “unspecified back strain” related to a single event on August 27, 2004 when she bent over to pull out mail from a cart.<sup>1</sup> Because of the possibility of new work exposure and because appellant was claiming an additional injury to her left knee, the Office adjudicated appellant’s claim as an occupational disease claim. The Office asked appellant to submit additional evidence in support of her claim, including a description of the employment activities that she believed contributed to her condition and a comprehensive medical report from her physician, one that provided the physician’s opinion, with medical reasons, on the cause of her back and left knee conditions. It noted:

“Specifically, if your doctor feels that exposure or incidents in your [f]ederal employment contributed to our condition, an explanation of how such exposure contributed should be provided. If aggravation of a preexisting back or left knee condition is being claimed as work related, your physician must explain what the work factors are and how these work factors materially changed or altered the preexisting condition, as opposed to the natural progression of an underlying condition or disease due to age.”

Appellant responded on August 17, 2005:

“My day start at 7[:00 a.m.] and before 11[:00 a.m.] I am in pain. My knee is swelling and my lower back is in pain. I collect, case and will mail from 7[:00 a.m.] to 12[:00 p.m.]. Waking, sitting; standing and lifting aggravate the injuries. (sic)

“I first notice the condition on the evening of August 27, 2004. I reported the injury on my next office visit, which was August 31, 2004. Enclosed is a copy of

---

<sup>1</sup> OWCP File No. 132112221.

the report. The symptoms are swelling, tenderness, joint and lower back pain. My preexisting back and knee condition claim is work related which has not been resolved since August 2004. I have not had back or knee surgery or been treated.

“A copy of the letter dated [July 22, 2005] was given to the ortho[pedic] physician.”

In a decision dated August 31, 2005, the Office denied appellant’s claim for compensation. The Office found that she had not established the specific work duties to which she attributed her condition and that the medical evidence did not address the issue of causal relationship.

The Office received another copy of the December 21, 2004 MRI scan. Appellant then requested a review of the written record by an Office hearing representative. She submitted no additional evidence or argument.

In a decision dated February 14, 2006, the Office hearing representative affirmed the August 31, 2005 denial of appellant’s claim. The Office hearing representative found that she “failed to describe the employment factors responsible for her purported injury.” The Office hearing representative also found that the medical evidence failed to relate the diagnosis of appellant’s left knee condition to any factors of federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Appellant must also establish that such event, incident or exposure caused an injury.<sup>3</sup>

Causal relationship is a medical issue<sup>4</sup> 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 of the physician must be based on a complete factual and medical background of the claimant,<sup>5</sup> must be one of reasonable medical certainty,<sup>6</sup>

---

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>5</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>6</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

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>7</sup>

### **ANALYSIS**

On August 17, 2005 appellant attributed her low back and knee complaints to her duties as a mail processing clerk. She stated that she collected and cased mail from 7:00 a.m. to 12:00 p.m. and that before 11:00 a.m. she was in pain. Appellant added that walking, sitting, standing and lifting aggravated her injuries. Dr. Giacobetti, her orthopedic surgeon, reported that she presented on January 13, 2005 with left knee pain “worsening with squatting/kneeling.” The Board finds, therefore, that appellant has sufficiently identified the employment factors to which she attributes her low back and left knee complaints. As there appears to be no dispute about whether she performed these activities in the course of her employment as a mail processing clerk, the Board finds that she has established that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged.

The question that remains is whether these employment activities caused an injury, that is, whether they caused or contributed to appellant’s diagnosed low back or left knee conditions. Appellant has submitted no medical opinion evidence connecting her diagnosed conditions to the employment factors she identified in her August 17, 2005 statement. In its July 22, 2005 letter to appellant, the Office well explained what her doctor needed to address to establish causal relationship. No such medical opinion was submitted. The record contains an MRI scan report and a January 13, 2005 report from Dr. Giacobetti, but these medical records draw no connection between appellant’s medical condition and her federal employment, much less do they explain to a reasonable degree of medical certainty how the specific physical activities implicated by appellant caused or otherwise contributed to her diagnosed condition. Because appellant submitted no medical opinion to support the critical element of causal relationship, the Board finds that she has not met her burden of proof to establish that she sustained an injury in the performance of duty, as alleged. The Board will affirm the denial of her claim.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish fact of injury. While the evidence is sufficient to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged, she submitted no medical opinion supporting a causal relationship between specific factors of employment and her diagnosed condition.

---

<sup>7</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 14, 2006 and August 31, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 25, 2006  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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