



In support of his claim, appellant submitted a January 8, 2004 duty status report in which Dr. R. Ghasemzadeh, Board-certified in internal medicine, diagnosed right knee sprain and advised that appellant could return to work on January 11, 2004.

In a letter dated January 15, 2004, the Office requested additional factual and medical evidence from appellant, who was requested to describe in detail how the injury occurred and to provide dates of examination and treatment, a history of injury given by him to a physician, a detailed description of any findings, the results of all x-rays and laboratory tests, a diagnosis and course of treatment followed and a physician's opinion supported by a medical explanation as to how the reported work incident caused the claimed injury. The Office explained that the physician's opinion was crucial to his claim and allotted appellant 30 days to submit the requested information.

The Office subsequently received a January 8, 2004 treatment note from Dr. Ghasemzadeh, who noted that appellant worked for the employing establishment and walked many hours a day. He related that, while he was walking, appellant felt pain in the right knee. Dr. Ghasemzadeh diagnosed a right knee sprain.

By decision dated February 20, 2004, the Office denied appellant's claim on the grounds that he did not establish an injury as alleged. The Office determined that there was no mechanism of injury and no material cause.

By letter dated March 13, 2004, appellant requested an examination of the written record. Appellant alleged that on January 8, 2004, while four hours into walking his route, he experienced a sharp pain in his right knee while going up an incline to deliver mail. He described his route and indicated that it contained 20 walking swings, with many steps, inclines and slopes, which he had to scale. Appellant alleged that his pain occurred on the job while he was carrying mail.<sup>1</sup>

The Office also received a duplicate of Dr. Ghasemzadeh's January 8, 2004 treatment note and a January 8, 2004 disability certificate from Dr. Ghasemzadeh indicating that appellant could return to work.

In a January 21, 2004 report, Dr. Jahan M. Joubin, a Board-certified orthopedic surgeon, noted that appellant was seen "for evaluation of his right knee. He injured his knee on the 8<sup>th</sup> of January on his job. He does have pain and difficulty going up and down stairs." He conducted a physical examination and determined that appellant walked with a minimal limp and had definite weakness of his quadriceps on the right side, with 10 degrees of extension. Dr. Joubin noted that there was no gross evidence of instability and that x-rays of appellant's knee showed that it was within normal limits, with the exception of evidence of degenerative arthritis on the undersurface of the patella, which was asymptomatic. He also provided treatment notes dated February 8 and 18 and March 17, 2004. On February 18, 2004 Dr. Joubin noted that appellant had "[f]ull range of motion of the knee. Still residual symptoms when he goes up and down stairs. Advised him to continue with his range of motion exercises and his regular activity." Dr. Joubin noted that if appellant's symptoms persisted, he might consider further work up. He noted that appellant did

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<sup>1</sup> He also submitted a May 9, 2004 correction regarding a date related to his continuation of pay.

not wish to have surgery. He also indicated that appellant had a prior history with his left knee, including anterior ligament cruciate reconstruction.

By decision dated August 20, 2004, the Office hearing representative affirmed the February 20, 2004 decision. The Office found that appellant had not provided rationalized medical evidence to support that he sustained a diagnosed medical condition as a result of a specific work incident on January 8, 2004.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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<sup>3</sup> and that an injury was sustained in the performance of duty.<sup>4</sup> These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>6</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

### **ANALYSIS**

Appellant alleged that he sustained a right knee injury while working his route on January 8, 2004. He explained that approximately four hours into his route, he experienced a sharp pain in his right knee while going up an incline to deliver mail. There is no dispute that appellant walked as part of his job of delivering mail. The Board finds that the first component of fact of injury, the claimed incident -- walking his route and going up an incline to deliver mail, occurred as alleged.

The Board notes that the medical evidence generally supports that appellant sustained a right knee sprain in the performance of duty on January 8, 2004 and are sufficient to establish a *prima facie* claim for compensation. Appellant submitted several reports dated January 8, 2004

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *Id.*

from Dr. Ghasemzadeh, which contained a diagnosis of right knee sprain. He also submitted a January 21, 2004 report in which Dr. Joubin stated that appellant injured his knee at work. Although Dr. Ghasemzadeh's and Dr. Joubin's reports are not sufficiently rationalized to meet appellant's burden of proof in establishing his claim, they stand uncontroverted in the record and are sufficient to require further development of the case.<sup>8</sup>

Proceedings under the Act are not adversarial in nature nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence. It has the obligation to see that justice is done.<sup>9</sup> The Board will remand the case to the Office for appropriate further medical development to determine whether appellant's employment activities on January 8, 2004 caused a right knee condition. Following this and any other further development as deemed necessary, the Office shall issue an appropriate merit decision on appellant's claim.

### **CONCLUSION**

The Board finds that this case is not in posture for decision.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the August 20, 2004 decision of the Office of Workers' Compensation Programs' hearing representative is hereby set aside and the case is remanded for further development in accordance with this decision of the Board.

Issued: March 27, 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

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<sup>8</sup> *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

<sup>9</sup> *John W. Butler*, 39 ECAB 852 (1988).