

statement accompanying the claim dated July 14, 2005, appellant noted that he was currently on light duty. However, when he delivered mail, he spent two to two and a half hours a day casing mail which involved constant twisting, turning, reaching and bending. Appellant delivered mail on his route for five and a half hours. He delivered to 598 residences and 148 businesses. The employing establishment controverted the claim.

In a medical report dated July 14, 2005, Dr. H. Gerard Siek, a Board-certified orthopedic surgeon, listed the diagnoses as bilateral total hip replacements, pain free at present. He also noted degenerative arthritic changes of the cervical, thoracic and lumbar spine.

By letter dated August 11, 2005, the Office requested that appellant submit additional information. In response, appellant submitted a statement received by the Office on September 13, 2005. His left hip started bothering him in October 2004 at which time he was in his old "dismount route." The symptoms at that time were severe pain in the thigh of the left leg when appellant took his first steps out of the mail truck. Shortly thereafter, he was placed on light duty and that stopped most of the pain. As a result of appellant's bid, he was currently working on a mounted route with limited movement in or out of the mail truck. He noted that since that time he had not experienced the problem with his left leg as often.

In a January 12, 2004 report, Dr. Alan L. Valadie, a Board-certified orthopedic surgeon, listed his impression as well-functioning left hip replacement and left hip osteoarthritis. On October 18, 2004 Dr. Valadie opined that appellant's thigh pain was not due to the loosening of his prosthesis, but instead due to modules mismatch in the tip of the stem, a problem which was exacerbated by repetitive movement from a seated to standing position that his job required.

By decision dated September 19, 2005, the Office denied appellant's claim for compensation. The Office accepted that the work activities occurred as alleged but found that the medical evidence was not sufficient to establish causal relationship.

On October 4, 2005 appellant requested an oral hearing. At the hearing held on April 4, 2006, he testified that he had a hip replacement in 2002 and was off work for six weeks. Appellant returned to work doing light duty. In July 2003, he returned to his regular work as a letter carrier and, until March 2005, he would mount and dismount from his truck approximately 400 to 550 times a day. This aggravated the condition in his left hip which caused left leg pain. Appellant noted that in March 2005 he successfully bid on a mounted route.

In a report dated October 10, 2005, Dr. Siek stated that on days that appellant was active he experienced mild discomfort. Now that appellant was on a mounted route, he managed fairly well. In a January 12, 2006 report, Dr. Siek stated that appellant was progressing satisfactorily for four years post left total hip replacement. He noted that appellant was working eight hours a day with overtime as a letter carrier on a mounted route and that this was much easier than the walking route that he formerly held. In an April 12, 2006 medical report, Dr. Valadie stated:

"[Appellant] is under my care for a left hip condition which necessitated a left hip replacement in August 2002. More recently, he has developed pain, which I feel [is] attributable to his activities. He tells me that in the course of an average day he is in and out of his mail truck some 500 times. This, combined with walking

on uneven ground, is likely the source of his pain. I have recommended modification to activities, which include not lifting above 25 pounds, and avoiding this repetitive activity of getting in and out of a car.”

By decision dated May 30, 2006, the hearing representative affirmed the September 19, 2005 decision. The hearing representative found that, although appellant had established compensable employment factors, the medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing that 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 an 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.² 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.³

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.⁴

ANALYSIS

Appellant alleged that, prior to his mounted route commencing in March 2005, he had to get in and out of his vehicle approximately 400 to 550 times a day and walk on uneven ground. The issue, therefore, is whether he has submitted sufficient medical evidence to establish that these employment factors caused an injury. The Board finds that appellant has failed to establish a causal relationship between his leg pain and the accepted factors of employment. The medical evidence is not sufficiently rationalized to establish that the employment factors following his return to work at regular duty in 2003 aggravated her left hip condition.

Dr. Siek discussed appellant’s employment situation and noted that appellant was doing better on the new mounted route. On July 14, 2005 he indicated that appellant was able to work full time with overtime as requested and needed no narcotic medications. Dr. Siek did not provide a rationalized medical opinion addressing how the duties appellant performed from 2003

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Solomen Polen*, 51 ECAB 441 (2000); *see also Michael E. Smith*, 50 ECAB 313 (1999).

to 2005 would aggravate his left hip condition. He did not discuss how the mounted route work activities would cause or contribute to any degenerative changes as noted following hip replacement surgery. Dr. Valadie did note that appellant had developed pain in his left leg which he opined was attributable to his work activities. However, the Board has held that pain is considered a symptom not a diagnosis and does not constitute a basis for payment of compensation without medical rationale explaining the relationship to the employment. Dr. Valadie did not list a specific medical diagnosis or address how any symptoms related to the accepted factors of employment.⁵ He did not indicate that he was aware that appellant commenced a “mounted” route in 2005 which required appellant to not exit his vehicle as many times or to walk with great frequency. Dr. Valdie’s opinion that appellant’s employment is the “likely source of his pain” is speculative. The Board has held that an award of compensation may not be based on surmise, conjecture or speculation.⁶ Accordingly, Dr. Valadie’s opinion is also insufficient to meet appellant’s burden of proof.

Appellant has failed to submit medical evidence sufficient to establish that the employment incident caused a personal injury. Therefore, the Office properly denied appellant’s claim.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury causally related to factors of his federal employment.

⁵ *Robert Broome*, 55 ECAB 339 (2004).

⁶ *See Joe T. Williams*, 41 ECAB 518, 521 (1993).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 30, 2006 and September 19, 2005 are affirmed.

Issued: March 1, 2007
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board