

In a January 23, 2007 note, Dr. James A. Di Renna, a Board-certified family practitioner, treated her for bilateral knee pain and recommended rest, ice, compression and elevation of the legs. In a January 26, 2007 work release form, he advised that appellant could return to work on January 26, 2007. Appellant also submitted a nursing note dated January 23, 2007 which indicated that she experienced right knee pain.

The employing establishment submitted e-mails dated January 23, 2007 noting that appellant reported her bilateral knee condition on January 23, 2007 and requested leave. Appellant's supervisor indicated that appellant chose not to fill out an accident report but believed her bilateral knee condition could be related to her job. Also submitted was a job description for a letter carrier.

In a letter dated February 7, 2007, the Office advised appellant of the factual and medical evidence needed to establish her claim, particularly a physician's reasoned opinion addressing the relationship of her claimed knee condition and her employment duties. In a letter of the same date, the Office requested that a knowledgeable supervisor address appellant's occupational disease claim and describe her work duties.

Appellant submitted a statement dated February 7, 2007. She described her work duties noting that she carried mail five days a week and walked approximately eight miles per week. A January 30, 2007 report from Dr. William G. Humphreys, a Board-certified orthopedic surgeon, noted that she worked as a letter carrier for the past 19 years. He indicated that appellant presented with bilateral knee pain which was aggravated when she was on her feet for long periods of time but she reported no discrete injury. He noted findings upon physical examination of a normal range of motion of the knees, no effusion, tenderness laterally on both knees, no crepitus and no instability. Dr. Humphreys advised that radiographs of appellant's knees revealed no abnormalities. He opined that she probably had an overuse process with her knees which was most likely related to or exacerbated by her job. Dr. Humphreys recommended that appellant return to work in a few days. On February 13, 2007 he advised that a magnetic resonance imaging (MRI) scan of the right knee was consistent with iliotibial band syndrome. Dr. Humphreys noted appellant's complaints of pain radiating down to her ankle consistent with possibly sciatica or iliotibial band. He opined that her symptomology was easily attributable to her work requirements. In a return to work form dated February 13, 2007, Dr. Humphreys diagnosed overuse syndrome of the right knee and recommended knee immobilization and medication. In a return to work slip dated March 5, 2007, he advised that appellant could return to work on March 6, 2007 subject to restrictions.

The employing establishment submitted a statement from Ray Rocha, appellant's supervisor, dated March 15, 2007. He concurred with her job description statement. Mr. Rocha noted that city carriers could lift up to 70-pound items occasionally and their mail satchels weighed up to 35 pounds. They were required to bend, pull, stoop and push up to two hours per day. He advised that appellant began working as a carrier in October 1987 and was on limited duty starting February 5, 2007.

In a decision dated March 23, 2007, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her condition was caused by her employment duties.

LEGAL PRECEDENT

An employee seeking benefits under the 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.¹

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 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.²

ANALYSIS

It is not disputed that appellant’s duties as a letter carrier included walking approximately 35 city blocks per day, lifting up to 70 pounds occasionally, carrying mail satchels weighing up to 35 pounds and bending, pulling, stooping and pushing two hours per day. It is also not disputed that she has been diagnosed with overuse syndrome of the right knee and iliotibial band syndrome. However, appellant has not submitted sufficient medical evidence to support her overuse syndrome of the right knee and iliotibial band syndrome is causally related to her federal employment. On February 7, 2007 the Office advised her of the medical evidence needed to establish her claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated her claimed condition.

Appellant submitted notes from Dr. Di Renna who treated her for bilateral knee pain and recommended rest, ice compression and elevation of the legs. He advised that appellant could

¹ Gary J. Watling, 52 ECAB 357 (2001).

² Solomon Polen, 51 ECAB 341 (2000).

return to work on January 26, 2007. However, Dr. Di Renna failed to provide a history of her medical condition or provide a rationalized opinion regarding the causal relationship between appellant's bilateral knee condition and the employment factors believed to have caused or contributed to such condition.³ Therefore, these reports are insufficient to meet appellant's burden of proof.

Appellant submitted a nursing note dated January 23, 2007 advising that she experienced right knee pain. The Board has held that treatment notes signed by a nurse are not considered medical evidence as a nurse is not a physician under the Act.⁴ Therefore, this note is insufficient to meet appellant's burden of proof.

Appellant submitted a report from Dr. Humphreys dated January 30, 2007, who noted that she worked as a letter carrier for 19 years and presented with bilateral knee pain which was aggravated when she was on her feet for long periods of time. Dr. Humphreys opined that she "probably" had an overuse process with her knees, "most likely related or at least exacerbated by her job." He noted that appellant's condition was "probably" and "most likely" work related, couching his opinion in speculative terms. The Board has held that medical opinions which are speculative or equivocal in character are of diminished probative value.⁵ On February 13, 2007 Dr. Humphreys noted appellant's complaints of pain radiating down to her ankle consistent with possibly sciatica or iliotibial band and diagnosed overuse syndrome of the right knee. He noted that appellant's job as a letter carrier required her to be on her feet and opined that "this very easily is attributed to work requirements in terms of her symptomatology so I think this could easily be a worker's compensation type of issue." Although Dr. Humphrey noted that appellant's condition was "very easily" attributed to her work requirements, he did not provide adequate medical reasoning to explain the medical basis of why the diagnosed condition was caused or aggravated by the implicated employment duties. He did not provide a full history of appellant's knee symptoms or address her history of 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.⁶ Causal relationships 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.

³ *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).

⁴ See 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. See also *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board has held that a medical opinion, in general, can only be given by a qualified physician).

⁵ See *Jimmie H. Duckett*, *supra* note 4.

⁶ See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she developed an employment-related injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the March 23, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 14, 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