United States Department of Labor
Employees' Compensation Appeals Board

C.J., Appellant	)	
and	)	**Docket No. 08-625**
	)	**Issued: August 8, 2008**
DEPARTMENT OF THE NAVY, MILITARY SEALIFT COMMAND, Virginia Beach, VA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 28, 2007 appellant filed a timely appeal from a November 30, 2007 decision of the Office of Workers' Compensation Programs, terminating his wage-loss compensation and medical benefits. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether the Office met its burden of proof to terminate appellant's wage-loss compensation and medical benefits.

FACTUAL HISTORY

On March 17, 2007 appellant, then a 60-year-old engine utility man, filed a claim for a traumatic injury on December 14, 2005 when he bumped his right knee in the engine room of a ship. The Office accepted his claim for an aggravation of effusion (swelling) of a joint in his

right lower leg.[1] On February 7, 2006 an orthopedic surgeon stated that appellant had full range of motion of his right knee and was fit for duty without restrictions.

In reports dated September 14 and November 15, 2006, Dr. Walter R. Wallingford, an attending rheumatologist, noted that appellant had experienced inflammatory and degenerative joint disease of his knees since at least June 2005 and might require a total knee replacement. He had swelling in his right knee and left ankle and crepitus in both knees. Dr. Wallingford did not attribute appellant's symptoms to the December 14, 2005 accepted aggravation of effusion of the right lower leg joint.

In a September 19, 2007 report, Dr. Mark K. Vandenberg, an attending rheumatologist, stated that he had treated appellant for several months for significant arthritis of the knees, ankles and feet. He noted that appellant had difficulty walking and arising from a chair and was unable to work due to the severity of his arthritic symptoms.

In a report dated October 8, 2007, Dr. Raymond R. Fletcher, a Board-certified orthopedic surgeon and an Office referral physician, reviewed appellant's medical history and provided findings on physical examination. He diagnosed a work-related right knee medial compartment contusion, temporary aggravation of right knee arthrosis and right knee temporary traumatic effusion, all resolved. Conditions that were not work-related included chronic lumbar pain with spondylosis, degenerative/inflammatory arthritis of both knees and ankles, lower extremity neuropathy, worse on the right, calcium pyrophosphate crystals in the right knee and hypertension. Dr. Fletcher stated:

> "The following is an account of [appellant's] subjective musculoskeletal complaints in relation to the work injury claim of [December 14, 2005]. He complains of pain in both feet … ankles … knees and lumbar spine. It is noted that only the right knee effusion is an accepted condition for the work injury claim of [December 14, 2005]. [Appellant] describes recurring episodes of joint swelling of both ankles and both knees somewhat worse on the right. He describes morning stiffness of both ankles and both knees…. [Appellant] also describes numbness of both lower legs worse on the right. Most of the work injury is located in the right knee at the medial compartment…."
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> "Hamstring muscles are very tight bilateral. The lower extremity reflex exam[ination] is 1/4. The lower extremity motor exam[ination] is 5/5. The lower extremity sensory exam[ination] reveals nondermatomal deficit in both lower legs worse on right. The lower extremity muscles reveal no atrophy. Both ankles reveal suprapatellar synovitis, anterior joint line tenderness and +2 effusion. Both

[1] The Office noted that appellant sustained only an aggravation of effusion of his right knee on the December 14, 2005 injury because he had a preexisting right knee effusion. An October 11, 2005 medical note indicated that appellant sustained a right knee effusion approximately August 2005.

knees reveal suprapatellar synovitis, patellofemoral/medial compartment tenderness with crepitus and +2 effusion…."

* * *

"This is a 61-year-old man with a work injury as an engine utility man … on [December 14, 2005]. [Appellant] describes contusion of right knee medial compartment. He has a multitude of lower extremity symptoms, which all are related to inflammatory arthropathy. The examination reveals synovitis of both ankles and both knees…. The rheumatology consult indicates inflammatory arthropathy. The work injury on [December 14, 2005] caused temporary aggravation of right knee arthrosis and effusion which have resolved. There is a direct causal relationship between the temporary right knee conditions stated above and the work injury of [December 14, 2005]. There is no causal relationship between the current lower extremity inflammatory joint conditions and the work injury of [December 14, 2005]. [Appellant's] subjective complaints correlate with the objective findings of inflammatory arthropathy in both lower extremity joints. There is evidence of nonvoluntary secondary gain. [Appellant] demonstrated no nonphysiologic findings, exhibited poor-good voluntary effort, and was cooperative during this evaluation."

* * *

"The right knee work injury diagnosis includes: medial compartment contusion, temporary aggravation of arthrosis and temporary traumatic effusion. All of these conditions have resolved without residual impairment. [Appellant] continues with lower extremity joint symptoms due to inflammatory arthropathy, however, not related to the work injury of [December 14, 2005]."

* * *

"[Appellant] is able to work full capacity at his previous employment with the [employing establishment]."

On October 16, 2007 the Office advised appellant of its proposed termination of his compensation benefits on the grounds that the weight of the medical evidence established that he had no residuals from his accepted aggravation of effusion of a joint in his right lower leg.

On November 30, 2007 the Office terminated appellant's wage-loss compensation and medical benefits effective November 29, 2007 on the grounds that the weight of the medical evidence established that he had no residual medical condition or disability causally related to his accepted aggravation of effusion of a joint in his right lower leg sustained on December 14, 2005.[2]

[2] Subsequent to the November 30, 2007 Office decision, appellant submitted additional evidence. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.[3] The Office may not terminate compensation without establishing that the disability ceased or that it is no longer related to the employment.[4] The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[5] Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that a claimant no longer has residuals of an employment-related condition that require further medical treatment.[6]

ANALYSIS

The Office accepted appellant's claim for an aggravation of effusion of a joint in his right lower leg. On February 7, 2006 an orthopedic surgeon stated that appellant had full range of motion of his right knee and was fit for duty without restrictions.

In November 2006, Dr. Wallingford noted that appellant had experienced inflammatory and degenerative joint disease of his knees since at least June 2005 and might require a total knee replacement. He did not attribute appellant's condition to the December 14, 2005 accepted temporary aggravation of effusion of his right lower leg joint. Therefore, this report does not establish any residual disability or medical condition causally related to the December 14, 2005 employment injury.

On September 19, 2007 Dr. Vandenberg stated that appellant was unable to work due to the severity of his arthritic symptoms in his lower extremities. However, arthritis is not an accepted condition in this case. Dr. Vandenberg's report is not probative on the issue of whether appellant's accepted aggravation of effusion of his right lower leg joint had resolved.

Dr. Fletcher reviewed appellant's medical history, provided detailed findings on physical examination and described his subjective musculoskeletal complaints. He found that appellant's December 14, 2005 accepted temporary aggravation of right knee traumatic effusion had resolved without any residuals. Appellant had several lower extremity conditions that were not work-related including degenerative/inflammatory arthritis of both knees and ankles, lower extremity neuropathy and calcium pyrophosphate crystals in the right knee. These conditions were caused by inflammatory arthropathy.[7] Dr. Fletcher stated that there was no causal relationship between the lower extremity inflammatory joint conditions and the December 14,

[3] *Barry Neutach*, 54 ECAB 313 (2003); *Lawrence D. Price*, 47 ECAB 120 (1995).

[4] *Id.*

[5] *See Del K. Rykert*, 40 ECAB 284 (1988).

[6] *Mary A. Lowe*, 52 ECAB 223 (2001); *Wiley Richey*, 49 ECAB 166 (1997).

[7] Arthritis is inflammation of a joint. Arthropathy is a disease of a joint. *See* DORLAND'S, *Illustrated Medical Dictionary* (30th ed. 2003) 149, 156.

2005 employment injury. He noted that appellant's subjective complaints correlated with the objective findings of inflammatory arthropathy in both of his lower extremity joints. Dr. Fletcher determined that his lower extremity joint symptoms were due to inflammatory arthropathy, not the December 14, 2005 employment injury. He opined that appellant was able to work full capacity at his previous job with the employing establishment. The Board finds that Dr. Fletcher's comprehensive report is based upon a complete and accurate factual and medical background. He explained that appellant's symptoms on physical examination were causally related to his nonwork-related lower extremity arthritis and arthropathy. Appellant sustained only a temporary aggravation of right knee joint effusion, swelling, and had no evidence of residual disability or effusion as of Dr. Fletcher's examination on October 8, 2007. The Board finds that the Office met its burden of proof in terminating appellant's wage-loss and medical benefits effective November 30, 2007 based on the report and opinion of Dr. Fletcher that his accepted right leg condition had resolved.

CONCLUSION

The Board finds that the Office met its burden of proof in terminating appellant's wage-loss compensation and medical benefits.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 30, 2007 is affirmed.

Issued: August 8, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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