

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

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**M.M., Appellant**

**and**

**U.S. POSTAL SERVICE, HUMACAO POST  
OFFICE, Humacao, PR, Employer**

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**Docket No. 08-794  
Issued: July 21, 2008**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On January 22, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' December 10, 2007 merit decision finding that he had not established an injury causally related to his federal employment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish that he developed right and left knee conditions due to factors of his federal employment.

**FACTUAL HISTORY**

On September 18, 2007 appellant, then a 61-year-old letter carrier, filed an occupational disease claim alleging that he required a left knee replacement and sustained degenerative changes in his right knee due to walking in the performance of duty. Appellant first became aware of his condition on November 28, 2003 and first attributed it to his employment on July 12, 2007.

In a letter dated September 24, 2007, the Office requested additional factual and medical evidence from appellant. The Office allowed appellant 30 days for a response. Appellant provided his work restrictions from Dr. Manuel O. Soto Ruiz, a Board-certified orthopedic surgeon, dated January 20, 2004 to February 8, 2005. He submitted an October 17, 2004 medical report diagnosing left knee medial compartment osteoarthritis and arthroplasty. A magnetic resonance imaging scan obtained on November 9, 2005 demonstrated a tear of the medial meniscus, acute marrow edema and degenerative changes in appellant's right knee. On January 11, 2006 appellant reported increased right knee pain. An x-ray report dated July 9, 2007 revealed left knee medial hemiprosthesis and evidence of joint space narrowing and marginal spurs in the right knee.

In a statement dated October 2, 2007, appellant stated that he walked 10 to 12 miles daily carrying a 35-pound bag for 24½ years as a letter carrier. During December 2002, he experienced feeling a blow in his left knee with strong pain. Appellant did not file a claim for this injury. He filed an occupational disease claim on November 28, 2003 and underwent a left knee replacement on October 14, 2004. Appellant returned to work on February 14, 2005 and worked with restrictions for 3½ years following surgery. He began working a mounted route which caused or contributed to his right knee condition due the requirement that he enter and exit his postal vehicle 300 to 400 times a day. Appellant stated that he currently required a right knee replacement and was totally disabled.

By decision dated December 10, 2007, the Office denied appellant's claim finding that he did not submit the necessary medical opinion evidence establishing a causal relationship between his knee conditions and his employment duties.

### **LEGAL PRECEDENT**

An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.<sup>1</sup> 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 a disease or condition for which compensation is claimed; (2) a factual statement identifying the 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. The medical opinion 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.<sup>2</sup>

### **ANALYSIS**

Appellant submitted medical evidence pertaining to a left knee replacement and degenerative changes in the right knee. He also has been diagnosed with a tear of the medial

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<sup>1</sup> 20 C.F.R. § 10.5(q).

<sup>2</sup> *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

meniscus and acute marrow edema. He submitted a factual statement attributing his knee conditions to his employment duties of walking while carrying a 35-pound mailbag and to entering and exiting from his postal vehicle more than 300 times a day. However, appellant failed to submit any medical evidence attributing his knee conditions to the implicated employment duties. The record does not contain a detailed narrative report from a physician listing appellant's employment duties or offering an explanation as to how these duties caused or contributed to his knee conditions. Without such medical opinion evidence, appellant has not met the requirements to establish his occupational disease claim. The treatment notes of Dr. Soto Ruiz describe appellant's physical restrictions and do not address the issue of causal relation. The Office properly found that appellant did not submit a medical report providing a diagnosis of his bilateral knee conditions, a description of appellant's employment duties or an opinion relating these duties to any of his diagnosed conditions. Due to this deficiency, appellant failed to meet his burden of proof and the Office properly denied his claim.

**CONCLUSION**

The Board finds that appellant has not established that he sustained injury to either his right or left knee due to his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 10, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 21, 2008  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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