

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

G.R., Appellant)
and) Docket No. 08-430
U.S. POSTAL SERVICE, PROCESSING &) Issued: June 9, 2008
DISTRIBUTION CENTER, Little Rock, AR,)
Employer)

)

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On November 26, 2007 appellant filed a timely appeal from the merit decision of the Office of Workers' Compensation Programs dated October 3, 2007 denying his claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant established that he sustained an injury in the performance of duty, causally related to factors of his federal employment.

FACTUAL HISTORY

On July 31, 2007 appellant, then a 48-year-old mail handler, filed an occupational disease claim alleging that he sustained chronic pain, swelling and arthritis in his legs, feet, ankles and knees as a result of prolonged standing, sitting, lifting and walking as a part of his federal employment. In support thereof, he submitted a statement wherein he indicated that he had

chronic pain, arthritis and cartilage damage in both knees and continual swelling in both legs, knees, ankles and feet. Appellant attributed these symptoms to “continual hours of working on concrete floors” at the employing establishment.

In further support of his claim, appellant submitted the results of a magnetic resonance imaging (MRI) scan of the right knee which was interpreted by Dr. Brad Pierce, a Board-certified surgeon, as showing a torn and degenerated medial meniscus, mild degeneration of the lateral meniscus with no lateral meniscal tear, some osteoarthritis with chondromalacia in both the medial and lateral joint compartments and a moderate-sized joint effusion with a 3 to 3.5 centimeters Baker’s cyst. Dr. Pierce also noted intact cruciate ligaments and collateral ligaments. He noted mild edema along the medial collateral ligament which he noted was probably reactive edema associated with medial joint compartment pathology.

Appellant also submitted an April 19, 2007 report by Dr. Reed W. Kilgore, a Board-certified surgeon, who indicated that he performed arthroscopic surgery on appellant’s left knee in 1998. Dr. Kilgore noted a repeat scope surgery was performed by Dr. Crow. He noted that appellant was a mail handler and was on his feet a lot. Dr. Kilgore diagnosed internal derangement of the right knee and degenerative joint disease of the left knee. On May 7, 2007 he gave appellant a Synvisc injection. Dr. Kilgore opined that it would be reasonable to do a meniscal debridement and diagnostic arthroscopy of the right knee. Further progress notes by him indicated that appellant had a left Synvisc injection of the knee on May 14, 2007 and a third and final injection on May, 21, 2007.

By letter dated August 31, 2007, the Office instructed appellant to submit a medical report linking the exposure or incidents in his federal employment to the alleged medical condition. No reply was received.

In a decision dated October 3, 2007, the Office denied appellant’s claim for compensation for the reason that the medical evidence did not demonstrate that the claimed medical condition was related to the established work event.

LEGAL PRECEDENT

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. 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.¹

¹ *Solomon Polen*, 51 ECAB 441 (2000); see also *Michael E. Smith*, 50 ECAB 313 (1999).

ANALYSIS

In the instant case, appellant established that he was exposed to the alleged employment factors. However, the Board finds that the Office properly denied appellant's claim as he failed to establish a causal connection between these employment factors and his medical condition. Causal relationship can only be established by medical evidence. Although medical evidence in this case notes that appellant has a condition in his knees, no physician links this condition to appellant's employment. Dr. Pierce interpreted the MRI scan as evidencing, *inter alia*, a torn and degenerated medial meniscus. However, he made no statement with regard to what caused this condition. Dr. Kilgore notes treatment of appellant's knees. Although he noted that appellant was a mail handler and was on his feet a lot, he never specifically connected the factors of this employment to appellant's medical condition.

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 his belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.² As appellant failed to submit such evidence, the Office properly denied his claim.

CONCLUSION

The Board finds that appellant did not establish that he sustained an injury in the performance of duty as alleged.

² See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 3, 2007 is affirmed.

Issued: June 9, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board