

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

H.K., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
PROCESSING & DISTRIBUTION CENTER,
Los Angeles, CA, Employer**

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**Docket No. 08-556
Issued: June 5, 2008**

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 20, 2007 appellant filed a timely appeal from an October 26, 2007 decision of the Office of Workers' Compensation Programs denying her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant has established that she sustained a bilateral knee condition in the performance of duty.

FACTUAL HISTORY

On August 16, 2007 appellant, then a 65-year-old clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained advanced osteoarthritis of both knees on or before August 2, 2007. She attributed her condition to prolonged standing, walking back and forth on a

concrete floor while distributing mail and lifting heavy trays of mail. Appellant stopped work on August 8, 2007. The record does not indicate if she returned to work.¹

In an August 2, 2007 report, Dr. David W. Huang, an attending Board-certified orthopedic surgeon, noted a history of bilateral knee pain and osteoporosis.² On examination and by x-ray, he found advanced degenerative osteoarthritis of both knees with effusion and severe genu varus. Dr. Huang recommended bilateral knee replacements.

In a September 11, 2007 letter, the Office advised appellant of the type of medical and factual evidence needed to establish her claim. The Office explained the critical need for a rationalized report from her attending physician explaining how and why the identified work factors would cause or contribute to the claimed condition. The Office cautioned that Dr. Huang's report did not contain such rationale.

In reports from August 8, 1996 to June 15, 2007, Dr. Ming-Chang Hsu, an attending general practitioner, diagnosed progressive degeneration and chondromalacia of the left knee with tendinitis of both knees. She noted that prolonged standing caused left knee pain and swelling.

In an October 3, 2007 report, Dr. Erik Zeegen, an attending Board-certified orthopedic surgeon, noted a history of bilateral knee pain, worse when climbing stairs, standing and walking. He obtained x-rays showing a bone on bone medial collapse in both knees, degenerative cysts, spurs and chondromalacia. Dr. Zeegen diagnosed primary osteoarthritis of both knees. He recommended bilateral knee replacements.

By decision dated October 26, 2007, the Office denied appellant's claim on the grounds that causal relationship was not established. The Office accepted appellant's account of her work duties as factual. The Office found, however, that appellant submitted insufficient rationalized medical evidence explaining how and why the identified work factors would cause or contribute to bilateral arthritis of the knees. The Office noted that it advised appellant by letter dated September 11, 2007 of the need for medical rationale supporting the claimed causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which

¹ Appellant was granted light duty from April 16 to June 15, 2007. In an August 7, 2007 letter, the employing establishment stated that it had no light-duty work within her limitations.

² Dr. Huang obtained bone density testing on August 9, 2007 showing osteoporosis of the lumbar spine and normal bone density in the left hip.

³ 5 U.S.C. §§ 8101-8193.

compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

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 the 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 medial 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.⁶

ANALYSIS

Appellant claimed that she sustained bilateral knee osteoarthritis in the performance of duty. Dr. Huang and Dr. Zeegen, both attending Board-certified orthopedic surgeons, diagnosed advanced osteoarthritis of both knees. Appellant has thus met the first element of her burden of proof by establishing the presence of the claimed condition. The Office accepted that appellant's duties as a mail clerk required prolonged standing, walking and lifting heavy trays of mail. Appellant has thus met the second element of her burden of proof, as she established the asserted work factors as factual. To meet the third element, she must submit sufficient medical evidence to establish the claimed causal relationship between the diagnosed bilateral knee osteoarthritis and the accepted work factors.

Dr. Huang submitted an August 2, 2007 report describing the advanced deterioration of both knees and recommending bilateral total arthroplasties. In an October 3, 2007 report, Dr. Zeegen made similar findings and also recommended bilateral knee replacements. However, Dr. Huang and Dr. Zeegen did not explain how the accepted work factors would cause or aggravate osteoarthritis of the knee. Their opinions are insufficiently rationalized to meet appellant's burden of proof in establishing causal relationship.⁷

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ *Solomon Polen*, 51 ECAB 341 (2000).

⁷ *Deborah L. Beatty*, 54 ECAB 340 (2003) (medical reports not containing rationale on causal relationship are entitled to little probative value).

Appellant also submitted reports from Dr. Hsu, an attending general practitioner, diagnosing tendinitis and chondromalacia of the left knee. She also stated that prolonged standing caused left knee pain and swelling. However, Dr. Hsu did not explain the pathophysiologic reasons why prolonged standing at work would cause or aggravate the claimed osteoarthritis. Dr. Hsu's opinion is thus insufficient to establish causal relationship.⁸

The Board notes that appellant was advised by letter dated September 11, 2007 of the need to submit rationalized medical evidence from her attending physician supporting causal relationship. However, appellant did not submit such evidence.

Appellant has failed to meet her burden of proof. She submitted insufficient rationalized medical evidence to establish that the claimed bilateral knee condition was caused or aggravated by the accepted work factors.

CONCLUSION

The Board finds that appellant has not established that she sustained a bilateral knee condition in the performance of duty as there is insufficient rationalized medical evidence to establish the causal relationship asserted.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 26, 2007 is affirmed.

Issued: June 5, 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

⁸ *Id.*