United States Department of Labor
Employees' Compensation Appeals Board

G.N., Appellant	)	
and	)	**Docket No. 08-74**
	)	**Issued: May 9, 2008**
U.S. POSTAL SERVICE, POST OFFICE, San Antonio, TX, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 3, 2007 appellant filed a timely appeal from an Office of Workers' Compensation Programs' September 24, 2007 merit decision and a July 19, 2007 decision denying benefits for a claimed left knee injury. Under 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 established that he sustained an injury to his left knee in the performance of duty on June 1, 2007.

FACTUAL HISTORY

Appellant, a 49-year-old letter carrier, filed a traumatic injury claim on June 13, 2007, alleging that he injured his left knee while ascending a porch step on June 1, 2007. He submitted a June 7, 2007 Form CA-17 duty status report from Dr. Daniel C. Finch, Board-certified in internal medicine, which indicated that appellant sustained a knee injury, noted examination findings of knee effusion and outlined work restrictions.

On June 19, 2007 the Office advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. The Office asked him to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted a June 27, 2007 Form CA-17 duty status report from Dr. Finch which indicated that appellant sustained a knee injury on June 1, 2007 when his left knee popped while he was stepping on a porch. Dr. Finch stated that appellant had mild effusion of the knee, outlined work restrictions and indicated that he could do sedentary work. A magnetic resonance imaging (MRI) scan report dated July 12, 2007 from a Dr. Karen J. Stewart stated an impression of: (1) osteoarthritic changes in the medial joint compartment; (2) small joint effusion and small popliteal cyst; and (3) horizontal tear in the posterior horn of the medial meniscus.

By decision dated July 19, 2007, the Office denied appellant's claim, finding that he failed to establish fact of injury. The Office stated that the factual evidence appellant submitted did not establish that the event occurred as alleged and there was no diagnosis which could be connected to the claimed event.

On July 23, 2007 appellant requested reconsideration and submitted additional evidence. In a June 15, 2007 report, Dr. Finch stated:

> "[Appellant] is under my care for primary care, chronic medical conditions and a new left knee injury. I saw the patient and evaluated the knee on June 5, 2007. [Appellant] returns today for reevaluation.
>
> "[Appellant] was injured on June 1, 2007. He was carrying mail on that date when he stepped up on a porch. As [appellant] transferred weight to the left knee he sensed a popping sensation and had immediate pain along the left medial joint line. Immediately after, he could n[o]t bear weight. [Appellant] hobbled back to his truck and drove himself back to the post office. The pain persisted. There [appellant] was told to go home but he protested saying that he was injured and needed immediate medical attention. He was driven here to [the hospital] where he was evaluated by a physician in our primary care clinic. [Appellant] was examined by another of our doctors and prescribed pain medication.
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> "When I examined [appellant] on June 5[, 2007] he had a moderate joint effusion and his range of motion was about 120 degrees from a normal of about 135. No instability could be detected. A plain x-ray series was felt to show mild osteoarthritis changes only. I advised continued nonweight bearing and rest.
>
> "Seen today [appellant] is requiring two crutches for mobility. I reexamined the patient. Now the knee is of normal warmth and equal to the right. No effusion is evident. The range of motion is greater than 135 degrees. Again, no laxity or instability are elicited.
>
> "Although the patient is better today I ordered a[n] [MRI] scan of [the] left knee.

"[Appellant] needs to continue no weight bearing for at least one more week or until the MRI [scan] results confirm that he has no significant internal knee derangement. He is instructed to continue on his crutches and ibuprofen on therapeutic doses for now. [Appellant] may not perform work duties that require standing or walking. He cannot lift or carry.

"My diagnostic impression is acute left knee injury with possible internal derangement. The injury is clearly related to his work activities. [Appellant's] prognosis for recovery is good. I anticipate that the patient will eventually return to full activity."

In a report dated July 25, 2007, Dr. Michael D. Ciepiela, a specialist in orthopedic surgery, reviewed the history of injury, stated findings on examination and concluded that appellant had sustained a flare up of osteoarthritis of the left knee. He advised that appellant was currently unable to perform his usual duties as a letter carrier due to the degree of arthritis present in his left knee. Dr. Ciepiela opined that appellant's current limitations were not due to the alleged June 1, 2007 work injury, but were related to symptoms of his underlying arthritis.

By decision dated September 24, 2007, the Office denied modification of the July 19, 2007 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing that 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 an 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.[2] 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.[3]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.[4] Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[5] The medical evidence required

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[4] *John J. Carlone*, 41 ECAB 354 (1989).

[5] *Id.* For a definition of the term "injury," *see* 20 C.F.R. § 10.5(a)(14).

to establish causal relationship is usually rationalized medical 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.[6]

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.[7]

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 his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.[8] Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

The Board finds that appellant failed to submit rationalized medical opinion evidence to sufficiently describe or explain the medical process by which the June 1, 2007 work accident would have been competent to cause the claimed injury.[9]

The only medical reports appellant submitted were Dr. Finch's June 7 and 27, 2007 Forms CA-17 duty status reports and the June 15, 2007 report from Dr. Finch which indicated that appellant sustained a knee injury on June 1, 2007 when his left knee popped while he was stepping on a porch. Dr. Finch stated that appellant had findings of mild joint effusion of the left knee, outlined work restrictions and indicated that appellant could do sedentary work. He indicated that appellant had possible internal derangement of the left knee with limitations which prevented him from performing his usual job as a letter carrier; *i.e.*, performing work duties that require standing or walking in addition to lifting or carrying, and indicated that this injury was clearly related to his work activities. Dr. Finch, however, did not provide any medical explanation of how appellant's work factor, stepping on a porch, caused his condition. As Dr. Finch did not provide a rationalized medical opinion supporting causal relationship, his report is of limited probative value. An MRI scan performed on July 12, 2007 likewise noted

[6] *Id.*

[7] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[8] *Id.*

[9] The Board notes that in its July 19, 2007 decision the Office denied appellant's claim on the grounds that he failed to establish fact of injury and that the medical evidence appellant submitted insufficient medical evidence in support of his claim. In its September 24, 2007 decision, the Office considered whether the medical evidence appellant submitted with his request for reconsideration was sufficient to warrant modification of the July 19, 2007 decision. Based on these facts, the Board finds that the Office implicitly accepted that appellant established fact of injury.

several abnormalities of the left knee, but offered no medical opinion regarding the cause of these findings.

The record also contains a duty status report from Dr. Ciepiela, who stated that appellant was currently unable to perform his usual duties as a letter carrier, but found that this was due to an underlying exacerbation of left knee osteoarthritis. He indicated that appellant's current limitations were not due to the alleged June 1, 2007 work injury, but were related to symptoms of his underlying arthritis. The reports from the physicians of record did not provide a medical opinion containing a diagnosis relating to the June 1, 2007 incident at work. These physicians also did not adequately address how appellant's claimed conditions were causally related to the June 1, 2007 work incident. There is insufficient rationalized evidence in the record that appellant's left knee injury was work related. Therefore, appellant failed to provide a medical report from a physician that explains how the work incident of June 1, 2007 caused or contributed to the claimed left knee injury.[10]

The Office advised appellant of the evidence required to establish his claim; however, appellant failed to submit such evidence. Accordingly, he did not establish that he sustained a left knee injury in the performance of duty. The Office properly denied appellant's claim for compensation.

CONCLUSION

The Board finds that appellant has failed to establish that he sustained a left knee injury in the performance of duty.

[10] The form reports from Dr. Finch that support causal relationship with a checkmark are insufficient to establish the claim, as the Board has held that without further explanation or rationale, a checked box is not sufficient to establish causation. *Debra S. King,* 44 ECAB 203 (1992); *Salvatore Dante Roscello,* 31 ECAB 247 (1979).

ORDER

IT IS HEREBY ORDERED THAT the September 24 and July 19, 2007 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: May 9, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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