

November 2005 on the job and had since placed more weight on the right leg. Appellant did not stop work.

Appellant provided an October 28, 2005 form report from Dr. Terri G. Lockhart, a Board-certified internist, who diagnosed degenerative joint disease of the bilateral knees and chronic knee pain with intermittent exacerbations limiting appellant's ability to walk or stand for prolonged periods. Dr. Lockhart noted that appellant experienced monthly or bimonthly exacerbations which involved three to five days of recovery.

By correspondence dated September 20, 2007, the Office requested additional information concerning appellant's claim.

In an October 15, 2007 response, appellant reiterated his belief that his right knee degenerative joint disease was aggravated by his job duties and by his favoring his knee after injuring his left knee at work. He explained that he had degenerative joint disease in both knees at the time he was hired by the employing establishment, his condition became worse after he injured his left knee and began favoring his right knee. Appellant's job as a city carrier required him to walk and climb for significant periods of time, as he worked eight hours per day, six days per week. He stated that his only hobby outside work was exercising on a stationary bike. Appellant explained that he controls his right knee pain with pain medication, anti-inflammatory medication, ice and heat packs, sports creams and braces as needed.

By decision dated November 16, 2007, the Office denied appellant's occupational disease claim on the grounds that the record did not contain medical evidence establishing a causal relationship between appellant's diagnosed condition and his employment factors.

Subsequent to the Office's decision, appellant submitted a November 13, 2007 report from Dr. Felix M. Kirven, a Board-certified orthopedic surgeon, who diagnosed right knee pain secondary to aggravation of a preexisting degenerative condition related to a January 5, 1996 injury to the left knee. He stated that after appellant injured his left knee on January 5, 1996, he began to favor the right knee by bearing more weight on the right side, which aggravated his preexisting degenerative joint disease. Dr. Kirven noted that appellant complained of knee pain and swelling with walking, standing and bending, as well as difficulty climbing. On physical examination of the right knee he noted valgus deformity, medial joint line tenderness and some diminished range of motion. Dr. Kirven related appellant's aggravation of degenerative joint disease to his increased right knee weight bearing following his January 5, 1996 injury to the left knee.

By correspondence dated November 26, 2007, appellant requested a review of the written record. In a statement accompanying his request, he reiterated his belief that his degenerative joint disease was aggravated by favoring his right knee after injuring his left knee and by his job requirements of climbing, walking, bending and standing.

By decision dated February 26, 2008, the hearing representative affirmed the Office's denial of appellant's occupational disease claim, finding that appellant had not submitted sufficient rationalized medical opinion evidence to establish a causal relationship between his diagnosed aggravation of right knee degenerative joint disease and his employment factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 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 disabilities and/or specific conditions 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

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.⁴ The test for determining whether appellant sustained a compensable occupational disease or injury is three pronged. To establish the factual elements of the claim, appellant must submit: "(1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the 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 factors identified by the claimant."⁵

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his or her claimed injury and his or her employment.⁶ To establish a causal relationship, appellant must submit a physician's report, in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, states whether the employment injury caused or aggravated appellant's diagnosed conditions and presents medical rationale in support of his or her opinion.⁷

ANALYSIS

The Board finds that appellant established that he worked for the employing establishment and performed physical duties including walking, standing and climbing.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

⁴ *D.D.*, 57 ECAB 734 (2006).

⁵ *Michael R. Shaffer*, 55 ECAB 386, 389 (2004), citing *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 3.

⁶ *Donald W. Long*, 41 ECAB 142 (1989).

⁷ *Id.*

However, he did not provide a medical report explaining, with rationale, precisely how appellant's employment factors aggravated his preexisting right knee degenerative joint disease.

In support of his claim, appellant submitted an October 28, 2005 form report from Dr. Lockhart, who diagnosed degenerative joint disease of the bilateral knees and explained that appellant's chronic knee pain limited his ability to stand or walk for prolonged periods of time. However, she did not identify any specific employment factors, discuss how long appellant spends standing and walking in the course of a shift or a week or give rationale explaining precisely how appellant's employment caused a new condition or aggravated a preexisting condition. Dr. Lockhart did not address or render an opinion on causal relationship. The Board has held that medical evidence which does not address causal relationship is of no probative value on that issue.⁸ Accordingly, the Board finds that her October 28, 2005 report is insufficient to establish that appellant's diagnosed aggravation of degenerative joint disease is related to his employment.

Appellant also provided a November 13, 2007 report from Dr. Kirven, who noted that appellant had preexisting bilateral degenerative joint disease in the knees and that he also sustained an injury to his left knee on January 5, 1996. Dr. Kirven explained that after appellant's injury, he favored his right knee, which caused the aggravation of his preexisting degenerative joint disease. He did not relate appellant's knee condition to a specific employment factor, although he did state that appellant had difficulty walking and climbing. Dr. Kirven did not provide a history of the January 5, 1996 injury or give an explanation with rationale establishing a clear relationship between appellant's work activities and his diagnosed condition, particularly in light of the fact that appellant's condition was both preexisting and degenerative in nature. Therefore, the Board finds that Dr. Kirven's report is insufficient to establish that appellant's diagnosed aggravation of preexisting right knee degenerative joint disease is causally related to his employment. Accordingly, appellant has not met his burden of proof in establishing that he developed an occupational disease in the performance of duty because he has not submitted rationalized medical evidence showing causal relationship.⁹

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he developed an occupational disease in the performance of duty.

⁸ See A.D., 58 ECAB ___ (Docket No. 06-1183, issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

⁹ On appeal, appellant asserts that his right knee condition is affected by a prior left knee injury. This decision of the Board does not preclude appellant from pursuing the matter under other claims for injury or disease that he may have filed with the Office.

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2008 and November 16, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 24, 2008
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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