

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

E.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Salt Lake City, UT, Employer**

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**Docket No. 08-1950
Issued: February 12, 2009**

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 July 7, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decisions dated September 14, 2007 and June 2, 2008, finding that she did not sustain an injury while in the performance of duty. 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 established that she sustained an injury while in the performance of duty.

FACTUAL HISTORY

On June 13, 2007 appellant, then a 47-year-old postmaster, filed a claim for an occupational disease. In December 1999 she first became aware of chronic pain in her left knee. In August 2005 appellant first realized that her condition was caused by heavy lifting, standing and walking at work. In an August 31, 2005 surgical report, Dr. Scott T. Jackson, performed left knee diagnostic arthroscopic surgery and diagnosed chondromalacia of the left knee. In

treatment notes covering August 18, 2005 through January 29, 2007, Dr. Jackson stated that appellant received injections for left knee pain. Following the left knee arthroscopy, appellant was doing well with the exception of persistent mild to moderate effusion and debridement with findings of medial compartment chondromalacia. On September 23, 2005 Dr. Jackson diagnosed degenerative joint disease of the left knee. Appellant was released to return to part-time work four to five hours per day with restrictions. On December 22, 2005 and February 2, 2006 Dr. Jackson stated that appellant was unable to perform her regular work duties but could work eight hours per day with restrictions.

By letter dated June 19, 2007, the Office advised appellant that the evidence submitted was insufficient to establish her claim. It addressed the additional factual and medical evidence she needed to submit. Regarding the medical evidence, the Office requested a rationalized medical report from an attending physician which described appellant's symptoms, results of examination and tests, diagnosis, treatment provided the effect of treatment and opinion with medical reasons on whether exposure or incidents in appellant's federal employment contributed to her condition. It also requested that the employing establishment respond to appellant's claim and provide a copy of a position description including the physical requirements of the jobs she held from December 1, 1998 through her start date as postmaster.

In a June 27, 2007 letter, appellant stated that during her 20 years of working at the employing establishment she had lifted up to 69 pounds, walked extensively and stood in the positions of sales associate, letter carrier, mail processing clerk, supervisor and postmaster. Although her claim was for a left knee injury, she also experienced problems with her right knee. Appellant noted a nonwork-related fall that she experienced in 2001 and her hobbies. She submitted Dr. Jackson's October 19, 2005 report regarding the total left knee arthroplasty.

By letters dated July 25 and 26, 2007, the employing establishment controverted appellant's claim, contending that she did not sustain an injury causally related to her employment. It submitted descriptions of her positions. The physical requirements included, among other things, lifting up to 70 pounds, walking and standing.

By decision dated September 14, 2007, the Office found that appellant did not sustain an injury while in the performance of duty. The medical evidence of record failed to establish a causal relationship between the alleged left knee conditions and her employment duties.

In an undated letter received by the Office on March 18, 2008, appellant requested reconsideration. She resubmitted Dr. Jackson's October 19, 2005 report. In an October 19, 2005 discharge summary, Dr. Jackson recommended that appellant continue with physical therapy. On May 10, 2007 he opined that appellant's arthritis, a prior meniscectomy that was performed when she was 19 years old and her work activities caused her to develop post-traumatic arthritis that required total knee arthroscopy. In a January 4, 2008 report, Dr. Jackson stated that appellant was doing well following total knee arthroscopy. He reviewed a history of her left knee problems. In 1978 appellant underwent surgery to remove what Dr. Jackson believed was a ganglion cyst on the left knee. Dr. Jackson stated that appellant did not give a history of trauma to the knee but noted that she had worked at the employing establishment for 17 years, 3 of which involved walking and standing 8 hours per day and lifting up to 70 pounds as a carrier, walking approximately 4 hours per day for 1 year as a supervisor and walked and stood 6 to 8

hours per day and lifted up to 70 pounds for 13 years as a clerk. When appellant first presented for evaluation in 2005, she had clinical and radiographic symptoms of degenerative joint disease. She underwent arthroscopic surgery which revealed significant chondromalacia in all three compartments of the left knee. Because appellant did not respond well to surgery, she underwent total knee arthroscopy. The surgery was successful and appellant returned to modified-duty work. Dr. Jackson opined that appellant's work duties were at least an aggravating source which hastened or precipitated her knee condition leading to the total knee arthroscopy.

By decision dated June 2, 2008, the Office denied modification of the September 14, 2007 decision. The evidence submitted by appellant was insufficient to establish a causal relationship between her left knee conditions and accepted work duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of 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 compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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 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 a causal relationship is 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 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.⁴ Neither the fact that appellant's condition became apparent during a

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

period of employment nor her belief that the condition was caused by her employment is sufficient to establish a causal relationship.⁵

ANALYSIS

The Board finds that appellant has failed to establish a causal relationship between her left knee conditions and the accepted factors of her federal employment. Dr. Jackson's reports and treatment notes covering the period August 18, 2005 through January 29, 2007 stated that appellant suffered from persistent mild to moderate effusion and debridement with findings of medial compartment chondromalacia and, degenerative joint disease of the left knee. On September 23, 2005 he released appellant's to return to part-time work four to five hours per day with restrictions. However, this evidence fails to address whether the diagnosed conditions were caused or contributed to by the accepted employment factors. The Board finds that Dr. Jackson's reports and treatment notes are insufficient to establish appellant's claim.

Dr. Jackson's December 22, 2005 and February 2, 2006 reports stated that, appellant could not perform her regular work duties but, appellant could perform full-time work eight hours per day with restrictions. In an October 19, 2005 discharge summary, he recommended that appellant continue with physical therapy. However, this evidence does not provide a diagnosis or discuss how the diagnosed condition was caused or contributed to by the accepted employment factors. The Board finds that Dr. Jackson's reports and discharge summary are insufficient to establish appellant's claim.

Dr. Jackson's May 10, 2007 and January 4, 2008 reports stated that appellant's arthritis, open meniscectomy and work duties as a letter carrier, supervisor and clerk which included, walking, standing and lifting caused or at least aggravated her post-traumatic arthritis and degenerative joint disease, resulting in the total left knee arthroscopy. However, he did not provide medical rationale explaining how or why the accepted employment factors caused or aggravated the diagnosed conditions and resultant surgery. Dr. Jackson did not discuss the mechanism of the injury or its relationship to the employment factors. The Board has held that a medical opinion not supported by medical rationale is of little probative value.⁶

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained a left knee condition causally related to factors of her federal employment as postmaster. She did not meet her burden of proof.

CONCLUSION

The Board finds that appellant has failed to establish that she sustained an injury while in the performance of duty.

⁵ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

⁶ *Caroline Thomas*, 51 ECAB 451 (2000).

ORDER

IT IS HEREBY ORDERED THAT the June 2, 2008 and September 14, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 12, 2009
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