

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

A.P., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
La Puente, CA, Employer**

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**Docket No. 09-11
Issued: March 10, 2009**

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 30, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' May 16 and June 24, 2008 decisions that denied his claim. 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 met his burden of proof in establishing that he sustained a traumatic injury in the performance of duty on March 26, 2008.

FACTUAL HISTORY

On April 1, 2008 appellant, then a 59-year-old letter carrier, filed a traumatic injury claim alleging that on March 26, 2008 he sustained a possible cartilage tear to his right knee joint when a dog ran towards him while he was delivering mail to a house. He did not stop work. Appellant explained that he was delivering mail to a house when the garage door opened and a dog ran out towards him. He ran back to his vehicle without being attacked and was able to finish his route and return to the post office. The employing establishment controverted the claim.

In an April 1, 2008 duty status report, Dr. Herve Dumont, a Board-certified surgeon, noted that appellant was injured while quickly walking back to his truck. He stated that appellant's account of the injury did not correspond to the one given by the employing establishment, which stated that appellant sustained a right knee injury when a dog came out of a garage while he was delivering mail. Dr. Dumont diagnosed a right knee condition and noted that appellant could perform full duty. In an April 3, 2008 report, he stated that appellant explained that he had been attacked by a dog while working and had injured his right knee getting away. Appellant complained of right knee pain. Dr. Dumont noted right lateral knee tenderness and no swelling. He diagnosed sprain, strain of the knee and indicated that appellant could perform regular work. Dr. Dumont concluded that his findings were not consistent with appellant's account of the injury and noted the incident was nonindustrial.

In an April 16, 2008 letter, the Office advised appellant of the factual and medical evidence needed to establish his claim and provided him 30 days to submit additional information. It requested a physician's report describing any preexisting right knee conditions as well as treatment sought for the present right knee condition. Appellant submitted an April 23, 2008 work restriction form of Dr. Lincoln Yee, a Board-certified orthopedic surgeon, who advised no prolonged standing, walking or squatting.

In a May 16, 2008 decision, the Office denied appellant's claim finding the medical evidence insufficient to establish that his right knee injury was related to the March 26, 2008 work incident.

On May 27, 2008 appellant requested reconsideration. He submitted a May 7, 2008 medical report of Dr. Yee who noted that he reported that he twisted his right knee and developed right knee pain after turning and running from a dog that was charging after him on March 26, 2008. Appellant complained of posterolateral knee joint pain and intermittent popping and catching. Dr. Yee noted appellant's history of right knee arthroscopy in 2000 and right knee injuries on January 27, 1999 and June 29, 2000. In the "causation" section of the report, he noted preexisting mild degenerative changes that needed to be considered. Dr. Yee diagnosed mild effusion of the right knee and advised a repeated magnetic resonance imaging (MRI) scan of the right knee to rule out a lateral meniscus tear. He concluded that appellant's complaints were consistent with the March 26, 2008 mechanism of injury, "in the absence of any history of trauma and noted complaints." Dr. Yee also noted that appellant was able to continue his usual activities.

In a June 24, 2008 decision, the Office denied modification of the May 16, 2008 decision finding that the medical evidence lacked medical reasoning to support causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his 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

¹ 5 U.S.C. §§ 8101-8193.

duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. 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.²

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. 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.³

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on whether there is a causal relationship between the employee’s diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁴

ANALYSIS

The record supports that appellant was delivering mail on March 26, 2008 when a dog chased after him causing him to turn and run to his vehicle. However, he has not submitted sufficient medical evidence to establish that this incident caused his diagnosed right knee condition.

On May 7, 2008 Dr. Yee provided a history of appellant’s work injury as well as a past medical history describing his previous arthroscopic surgery and injuries to his right knee. He noted that appellant had preexisting mild degenerative changes needing consideration. Dr. Yee concluded that appellant’s right knee injury was consistent with the March 26, 2008 mechanism of injury, in the absence of any history of trauma and noted complaints. However, in that same report, he notes a history of trauma with references to appellant’s prior right knee injuries and arthroscopy as well as his disclaimer that appellant had preexisting degenerative changes. Although Dr. Yee provided some support for causal relationship between appellant’s right knee condition and the March 26, 2008 work incident, his report does not adequately explain the basis for his stated conclusion. The weight of medical evidence is determined by its reliability, its probative value and its convincing quality. The factors that comprise the evaluation of medical evidence include the opportunity for and the thoroughness of physical examination, the accuracy

² *S.P.*, 59 ECAB ____ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *Id.*

⁴ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion. The opinion of a physician must be of reasonable medical certainty and must be supported by medical rationale explaining causal relationship.⁵ The need for medical reasoning in support of Dr. Yee's opinion on causal relationship is important since Dr. Yee's report confirmed that appellant had previous injuries to the right knee.

Moreover, Dr. Dumont, in his April 3, 2008 form report, opined that appellant's condition was nonindustrial. He further noted that appellant could resume his regular work.

The other medical reports of record do not specifically support that the March 26, 2008 work incident caused or aggravated a diagnosed medical condition. Consequently, appellant has not submitted sufficient medical evidence to establish a causal relationship between his right knee condition and the March 26, 2008 work incident.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained a traumatic injury on March 26, 2008 in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decisions dated June 24 and May 16, 2008 are affirmed.

Issued: March 10, 2009
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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

⁵ *K.W.*, 59 ECAB ____ (Docket No. 07-1669, issued December 13, 2007).