



left knee.<sup>1</sup> Dr. James E. Boniface, a Board-certified orthopedic surgeon, examined appellant on October 5, 2005 and noted that his arthroscopic findings showed advancing osteoarthritis and loose bodies of articular cartilage.

Appellant submitted a statement indicating that he returned to light-duty work on August 22, 2005 and his supervisor instructed him to wash five vehicles. While carrying the vacuum, he experienced a sharp pain in his left knee. Appellant's supervisor controverted the claim stating that appellant did not report a new injury to him, indicated on August 25, 2005 that he was ready to return to full duty, requested to go to New Orleans to aid with the employing establishment response to Hurricane Katrina, a witness saw him climb stairs at a football stadium.

The Office requested additional factual and medical evidence by letter dated October 31, 2005. Appellant submitted a report from Dr. Boniface noting that he had treated appellant for over a year due to his left knee conditions which included two prior surgeries for progressive destructive arthritis with loose bodies, swelling and synovitis. Dr. Boniface found appellant totally disabled.

In a December 5, 2005 decision, the Office denied appellant's claim on the grounds that the medical evidence did not establish a causal relationship between his left knee condition and the accepted employment incident.

Appellant, through his attorney, requested an oral hearing on January 3, 2006. In a January 18, 2006 report, Dr. Boniface noted that appellant sustained a prior left knee injury on June 22, 2004. Appellant returned to light-duty work after his second surgery and he experienced a recurrence of swelling in the knee on August 25, 2005 after completing his assigned duties. Dr. Boniface stated that appellant experienced increasing pain and diagnosed an aggravation of preexisting underlying arthritis and new knee strain.

In a May 5, 2006 decision, the hearing representative found the case not in posture for decision and remanded for the Office to determine appellant's light-duty position requirements and to undertake further development of the medical evidence. The Office requested additional factual and medical evidence by letters dated September 13, 2006.

In a September 8, 2005 treatment note, Dr. Boniface stated that appellant had returned to light duty and continued to experience left knee pain and swelling. He recommended that appellant be retrained and seek a less physically demanding position. The employing establishment submitted a copy of his light-duty position description which advised that he was to perform receptionist duties including answering the telephone and clerical tasks. Appellant's light-duty restrictions included no squatting, kneeling or climbing and lifting up to 20 pounds. Appellant's supervisor stated that he asked appellant to clean five vehicles consisting of vacuuming the vehicles with a shopvac and driving each to a gas station for fuel and a drive through car wash. He stated that this was within appellant's physical restrictions and that the shopvac weighed 15 pounds.

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<sup>1</sup> The record establishes that appellant had a previously accepted claim for left medical meniscus tear. Dr. Boniface performed left knee surgeries on August 24, 2004 and July 8, 2005.

In a December 6, 2006 decision, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish a causal relationship between his employment incident and his current diagnosed condition. Appellant through his attorney requested an oral hearing on December 29, 2006.

At the oral hearing appellant noted that his original injury occurred during a fitness run and that his return to physical training resulted in the need for his second left knee surgery. He stated that, in order to clean the vehicles, he had to climb in and out of a Suburban to vacuum which entailed bending, kneeling and squatting.

In a June 26, 2007 decision, the hearing representative affirmed the December 6, 2006, decision, finding that the Office had accepted that appellant developed left knee loose bodies and chondromalacia on December 15, 2005 under his separate claim. The hearing representative also found that vacuuming had exceeded appellant's work restrictions. The hearing representative found, however, that the medical evidence from Dr. Boniface was not sufficient to establish that appellant's left knee condition was caused or aggravated by his employment activities on August 25, 2005.

On June 25, 2008 appellant, through his attorney, requested reconsideration. In a report dated February 22, 2008, Dr. David R. Delliquadri, an osteopath, described appellant's medical history including preemployment surgeries in 1988 and 1991. He noted that appellant reported constant pain, restricted range of motion and edema. Appellant advised Dr. Delliquadri that he had difficulty negotiating stairs and walking on uneven surfaces as well as arising from a seated position. Dr. Delliquadri found that appellant had an antalgic gait and significant distortion of the bony architecture of the left knee joint, 50 percent restricted range of motion as well as evidence of synovitis and positive crepitus. He also noted laxity of the medial and lateral collateral ligaments. Dr. Delliquadri diagnosed severe degenerative joint disease of the left knee with significant instability, internal derangement of the left knee and chronic pain. He stated that appellant was unable to perform any type of employment that would require him to utilize his left lower extremity and could not walk, run, pivot or squat. Dr. Delliquadri recommended a total left knee replacement.

By decision dated September 29, 2008, the Office denied modification of the June 26, 2007 decision. It found that the medical evidence was not sufficient to establish a causal relationship between appellant's August 25, 2005 employment incident and his current left knee condition.

### **LEGAL PRECEDENT**

The Office defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."<sup>2</sup> In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of

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<sup>2</sup> 20 C.F.R. § 10.5(ee).

injury consists of two components which must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident which is alleged to have occurred.<sup>3</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>4</sup> 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>5</sup>

### ANALYSIS

Appellant filed a claim alleging that on August 25, 2005 he experienced a pain in his left knee while carrying a vacuum as part of his assigned duties. The Office accepted that he was assigned to clean employing establishment vehicles with a vacuum on August 25, 2005. However, it found that the medical evidence was not sufficiently detailed or based on a complete factual history to establish a causal relationship between appellant's diagnosed condition and the accepted employment incident.

Appellant submitted a series of reports from Dr. Boniface, a Board-certified orthopedic surgeon. On September 8, 2005 Dr. Boniface stated that appellant returned to light duty and continued to experience left knee pain and swelling. He did not mention the accepted employment incident or activity that caused or contributed to appellant's left knee condition. This report does not contain an accurate history of the August 25, 2005 incident and does not offer an opinion on the causal relationship between his employment duties that day and his left knee condition. Without a proper factual background and opinion on causal relationship, this report is not sufficient to meet appellant's burden of proof.

On November 7, 2005 Dr. Boniface stated that he had treated appellant for more than a year due to his preexisting left knee condition which resulted in two arthroscopies. He diagnosed progressive arthritis in the left knee and stated that appellant was totally disabled. This report is not sufficient to meet appellant's burden of proof as Dr. Boniface did not address the August 25, 2005 employment incident or offer any explanation as to how this work event caused or

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<sup>3</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>5</sup> *James Mack*, 43 ECAB 321 (1991).

contributed to appellant's knee condition. As this report did not contain the necessary medical opinion evidence to establish a causal relationship between appellant's accepted employment incident of lifting a vacuum on August 25, 2005 and his diagnosed left knee conditions, it does not establish appellant's claim.

On January 18, 2006 Dr. Boniface noted appellant's previous employment-related left knee injuries. He stated that appellant returned to light-duty work and opined that appellant experienced a recurrence of swelling in his left knee on August 25, 2005 after completing his work duties. Dr. Boniface reiterated the diagnosis of preexisting underlying arthritis and a new left knee strain. This report again failed to address the August 22, 2005 incident of lifting a vacuum and cleaning vehicles. Dr. Boniface did not provide explanation of how lifting a vacuum or cleaning vehicles would cause or contribute to the underlying arthritis. This report does not contain sufficient medical opinion on causal relationship to meet appellant's burden of proof.

On February 22, 2008 Dr. Delliquadri, an osteopath, who described appellant's medical history and complaints of pain, restricted range of motion and edema. He diagnosed severe degenerative joint disease of the left knee with significant instability, internal derangement of the left knee and chronic pain. Dr. Delliquadri advised that appellant could not walk, run, pivot or squat and recommended a total left knee replacement. The Board finds that he did not provide the sufficient medical opinion evidence to establish appellant's claim. Dr. Delliquadri did not describe appellant's August 25, 2005 employment incident or offer any opinion as to how the incident contributed as a cause of appellant's current left knee condition. Without a medical report acknowledging the August 25, 2005 incident or offering an opinion as to whether the incident caused or contributed to appellant's left knee conditions, he has not met his burden of proof. The Office properly denied his traumatic injury claim.

On appeal, appellant's attorney argued that the evidence should be found to be sufficient to establish a left knee injury on August 25, 2005 or to require the Office to schedule a second opinion evaluation. As noted, the Board finds that the medical evidence of record is not sufficient to establish that the accepted incident at work caused or contributed to appellant's preexisting left knee degenerative joint disease.<sup>6</sup>

### **CONCLUSION**

The Board finds that appellant failed to establish a traumatic injury on August 25, 2005.

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<sup>6</sup> Neither the fact that a disease manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors is sufficient to establish causal relation. See *Jamel A. White*, 54 ECAB 224 (2002); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 29, 2008 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: July 13, 2010  
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