United States Department of Labor
Employees' Compensation Appeals Board

F.L., Appellant	)	
and	)	**Docket No. 10-65**
	)	**Issued: July 21, 2010**
U.S. POSTAL SERVICE, POST OFFICE, Bellwood, PA, Employer	)	

Appearances:
Aaron B. Aumiller, Esq., for the appellant
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 October 7, 2009 appellant filed a timely appeal from a May 4, 2009 merit decision of the Office of Workers' Compensation Programs. 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 established a left knee injury causally related to factors of his federal employment.

FACTUAL HISTORY

On July 19, 2006 appellant, then a 55-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a torn meniscus as a result of walking with mail for four to five hours a day. He became aware of his condition on May 17, 2006 and he received emergency room treatment on May 18, 2006.

In a report dated July 25, 2006, Dr. Joshua Port, an orthopedic surgeon, noted that a July 14, 2006 magnetic resonance imaging scan showed a tear of the medial meniscus of the left

knee. Appellant underwent left knee surgery on August 30, 2006. On September 18, 2006 Dr. Port stated that appellant had a history of arthritis in the knee. He reported an onset of knee pain on May 17, 2006 while appellant was on his mail route. Appellant may have twisted the knee but he could not recall a specific incident. Dr. Port stated that the "arthritis that exists within his knee was likely a chronic condition but was not bothering him and the meniscus tear is likely new and directly work related, any exacerbation of the arthritis is work related as well."

By decision dated October 20, 2006, the Office denied appellant's claim for compensation. It found the medical evidence was insufficient to establish causal relation.

Appellant requested reconsideration and submitted a November 27, 2007 report from Dr. Port, who stated his impression that the meniscus tear was work related because appellant's symptoms were basal and allowed him to work until the day that he injured himself. Dr. Port stated, "[Appellant] is stating to me that he reported pain at the end of the day shift. To me, that represents reported injury. It can happen from a twist or it can happen from repeated daily injury; regardless, the symptoms were not present at the beginning of the day, were present at the end of the day, and were related to work. I cannot be any more clear."

In a decision dated February 7, 2008, the Office denied modification of the October 20, 2006 decision. Appellant again requested reconsideration and submitted a January 24, 2009 report from Dr. Gary Goldstein, an orthopedic surgeon, who reviewed the medical evidence and noted that appellant was having trouble with both knees "predating the accident." He described the meniscus as a cushion between the femur and the tibia, and the left knee was stable prior to the May 17, 2006 accident. Dr. Goldstein concluded that the "knee replacement was made necessary in an overtly premature way as a result of the May 17, 2006 accident."[1]

By decision dated May 4, 2009, the Office reviewed the case on its merits and denied modification of the prior decisions.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.[3]

To establish that an injury was sustained in the performance of duty, a claimant 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 employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;

[1] Dr. Port reported on November 27, 2007 that radiographs showed a total knee arthroplasty.

[2] 5 U.S.C. §§ 8101-8193.

[3] 20 C.F.R. § 10.115(e), (f) (2005); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[4]

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.[5] A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.[6] Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.[7]

ANALYSIS

Appellant filed an occupational disease claim for a left medial meniscus that he attributed to carrying of mail for several hours a day. To establish his claim, he has the burden to submit rationalized medical evidence on causal relationship between the diagnosed condition and accepted employment factors.

In this case, the medical evidence is not of sufficient probative value to meet appellant's burden of proof. Dr. Port advised that the meniscal tear was work related, but he appeared to base his opinion on appellant being relatively asymptomatic and then experiencing knee pain while at work on May 17, 2006. A medical opinion stating that a condition is causally related to an employment injury because the employee was asymptomatic before the injury but became symptomatic is insufficient, without supporting rationale, to establish causal relationship.[8]

Appellant's claim is based on carrying mail over a period of time resulting in a left knee injury. An occupational disease or illness is an injury produced over more than one workday or shift.[9] Dr. Port briefly stated that an injury can happen from a twist or from repeated daily injury. The Board notes that appellant did not report a specific twisting or traumatic incident on May 17, 2006. To the extent that Dr. Port refers to repeated daily injury, he did not provide adequate medical opinion that the diagnosed meniscal tear in this case was causally related to the factor of carrying mail for several hours each day.

Dr. Goldstein did not provide an opinion addressing the issue presented. He referred to an "accident" on May 17, 2006, without providing a complete or accurate factual background.

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[4] *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

[5] *See Robert G. Morris*, 48 ECAB 238 (1996).

[6] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[7] *Id.*

[8] *T.M.*, 60 ECAB ___ (Docket No. 08-0975, issued February 6, 2009); *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

[9] 20 C.F.R. § 10.5(q).

As noted, the claim for compensation was based on walking with mail for several hours a day over a period of time. Dr. Goldstein referred to appellant's surgeries, without providing a explanation of how the diagnosed torn meniscus related to appellant's duties of mail delivery. The Board finds the medical evidence is of diminished probative value on the issue of causal relation.

On appeal, appellant asserted that the November 27, 2007 report of Dr. Port and the January 24, 2009 report from Dr. Goldstein are sufficient to further develop the claim. As noted, however, the Board finds the medical evidence is of diminished probative value on the issue of causal relationship and the Office properly denied the claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish a left knee injury causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 4, 2009 is affirmed.

Issued: July 21, 2010
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