



tenderness in her right knee. On June 7, 2008 appellant's treating physician obtained x-rays and a magnetic resonance imaging (MRI) scan, which revealed fluid around her right knee and a torn meniscus.

Appellant described her employment duties for the previous 18 years, which included: retrieving mail from the "back break-up;" pushing postcons weighing 500 to 600 pounds and transferring 600 mail trays a night, weighing from 15 to 30 pounds each, from the equipment to DECS machines. Her work involved reaching overhead and "sweep side reaching over [her] head upward and downward by putting the tray of mail from stacker to the rack." Appellant was required to dispatch the trays from five- to six-foot tall racks back to the postcon.

On August 15, 2008 the employing establishment controverted the claim on the grounds that she had submitted no medical evidence to establish that her knee injury was causally related to employment duties.

In a letter dated August 20, 2008, the Office informed appellant that the evidence submitted was insufficient to establish her claim. It advised her to submit details regarding the employment duties she believed caused or contributed to her claimed condition. The Office also requested a comprehensive medical report from a treating physician, which contained symptoms, a diagnosis and an opinion with an explanation as to how the identified employment activities caused or contributed to her claimed knee condition.

On August 25, 2008 appellant indicated that she noticed swelling and tenderness in her right knee on May 30, 2008. Her treating physician diagnosed a torn meniscus and opined that she developed fluid in the right knee as a result of standing on her feet for 20 years while working at the employing establishment. Appellant submitted an August 26, 2008 disability note from Dr. Zafer A. Termanini, a Board-certified orthopedic surgeon, who advised that she was totally incapacitated from August 18 through September 20, 2008 due to right knee surgery.

By decision dated November 13, 2008, the Office denied appellant's claim. It accepted that the work activities occurred as alleged, but denied the claim on the grounds that she had not established a causal relationship between her right knee condition and accepted work-related events.<sup>1</sup>

The record contains copies of reports from Dr. Termanini, which were submitted in File No. xxxxxx165, which was accepted for sprains of the left shoulder, upper arm and rotator cuff. In a November 7, 2008 duty status report, Dr. Termanini noted that appellant had restricted range of motion and decreased strength in the left upper extremity.

On July 9, 2008 Dr. Termanini stated that he had been treating appellant for a chronic left shoulder and right knee pain that recently, became increasingly worse. The range of motion was

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<sup>1</sup> The record contains a copy of a July 17, 2008 request to expand appellant's accepted conditions in File No. xxxxxx165 to include a right knee condition as a consequence of appellant's work-related shoulder injury. The record does not contain a copy of a final decision addressing that issue.

limited. There was large intraarticular effusion, ligamentous instability and exquisite tenderness upon palpation of the joint line and upon pushing the patella against the femoral condyle. A June 12, 2008 MRI scan revealed a horizontal tear of the posterior horn of the medial meniscus with large synovial effusion. Dr. Termanini recommended an arthroscopy of the right knee and opined that her right-knee condition was causally related to employment.

On July 11, 2008 Dr. Termanini stated that appellant was initially diagnosed with a left rotator cuff tear and underwent a surgical repair on January 3, 2008. Over the course of treatment, she began to experience increased pain and swelling in her right knee. An MRI scan revealed a tear of the medial meniscus with effusion. Based on her subjective complaints, findings on physical examination and MRI scan studies, Dr. Termanini opined, within a reasonable degree of medical certainty that appellant's right-knee condition was causally related to left upper extremity weakness. He explained that due to left shoulder weakness, she depended on her right upper and lower extremities to perform the normal daily activities that would normally require bilateral use. The increased use of her right extremities and increased weight bearing resulted in a weakening in and subsequent tear of, the right meniscus.

The record contains a June 12, 2008 report of an MRI scan of the right knee and an August 18, 2008 arthroscopy report of the right knee.

On June 18, 2009 appellant, through her representative, requested reconsideration.<sup>2</sup> Counsel contended that Dr. Termanini's July 9, 2008 report was sufficient to establish that appellant's right knee condition was caused by the accepted work activities.

By decision dated July 27, 2009, the Office denied modification of the November 13, 2008 decision on the grounds that the medical evidence was insufficient to establish a causal relationship between accepted employment activities and the claimed right knee condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of her claim, including the fact that an injury was sustained in the performance of duty as alleged<sup>4</sup> and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup>

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<sup>2</sup> The Board notes that appellant initially requested an oral hearing on November 26, 2008. Counsel withdrew the request on December 10, 2008.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joseph W. Kripp*, 55 ECAB 121 (2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). "When an employee claims that he sustained injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury." *See also id.* at § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) (2002) ("Occupational disease or Illness" and "Traumatic injury" defined).

<sup>5</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

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 the 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 diagnosed condition is causally related to the employment factors identified by the claimant.<sup>6</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to the claimant's diagnosed condition. To be of probative value, 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.<sup>7</sup>

An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish a causal relationship.<sup>8</sup>

### ANALYSIS

The Office accepted that appellant established a factual basis for her claim, namely, that she engaged in the employment activities as alleged. The medical evidence of record, however, is insufficient to establish that her claimed right knee condition was caused or aggravated by the accepted activities. Therefore, she has failed to meet her burden of proof.

On July 9, 2008 Dr. Termanini stated that he had been treating appellant for chronic left shoulder and right knee pain and that recently, the pain in her right knee had become increasingly worse. He provided examination findings and diagnosed a tear of medial meniscus with large synovial effusion. Dr. Termanini opined that appellant's right-knee condition was causally related to employment. He did not, however, address any of the identified employment activities or explain the medical process through which those activities would have been competent to cause the claimed condition. Medical conclusions unsupported by rationale are of little probative value.<sup>9</sup>

On July 11, 2008 Dr. Termanini opined that appellant's right-knee condition was causally related to left upper extremity weakness, explaining that she depended on her right upper and lower extremities to perform the normal daily activities that would normally require bilateral use. The increased use of her right extremities and increased weight bearing resulted in a weakening in and subsequent tear of, the right meniscus. Dr. Termanini's report does not support

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<sup>6</sup> *Michael R. Shaffer*, 55 ECAB 386 (2004). See also *Solomon Polen*, 51 ECAB 341, 343 (2000).

<sup>7</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000); see also *Ern Reynolds*, 45 ECAB 690, 695 (1994).

<sup>8</sup> *Phillip L. Barnes*, 55 ECAB 426 (2004); see also *Dennis M. Mascarenas*, *supra* note 5, at 218.

<sup>9</sup> *Willa M. Frazier*, 55 ECAB 379 (2004).

appellant's claim that her right knee condition was caused by the accepted employment activities over a 20-year period. It instead suggests that the knee condition may be a consequence of her left shoulder condition, which is the subject of a separate claim. As Dr. Termanini did not describe appellant's job duties or explain how they caused or contributed to her right knee condition, his report is of limited probative value.

The remaining medical evidence of record includes a November 7, 2008 duty status report, an August 26, 2008 disability slip, a June 12, 2008 MRI scan report and an August 18, 2008 operative report. As these reports do not contain an opinion on the cause of appellant's right knee condition, they are of limited probative value and insufficient to establish her claim.

Appellant expressed her belief that her alleged condition resulted from her duties as a mail processor/clerk. However, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>10</sup> Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.<sup>11</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which it is appellant's responsibility to submit. Therefore, her belief that her condition was caused by the alleged work-related injury is not determinative.

The Office advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of her condition. Appellant failed to do so. As there is no probative, rationalized medical evidence addressing how appellant's claimed conditions were caused or aggravated by her employment, she has not met her burden of proof to establish that she sustained a right-knee injury in the performance of duty causally related to factors of employment.

On appeal, counsel contends that the weight of medical evidence establishes that appellant's job duties caused her right-knee condition. As noted, however, Dr. Termanini's opinion that her knee condition was a consequence of her left shoulder condition constitutes evidence to the contrary.<sup>12</sup> For reasons stated, the Board finds that the medical evidence of record is insufficiently rationalized to establish a causal relationship between the claimed knee condition and accepted employment activities or to require further development.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a right knee injury in the performance of duty.

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<sup>10</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>11</sup> *Id.*

<sup>12</sup> See *supra* note 1.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 27, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 5, 2010  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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