United States Department of Labor
Employees' Compensation Appeals Board

R.S., Appellant	)	
and	)	**Docket No. 10-1710**
	)	**Issued: April 14, 2011**
U.S. POSTAL SERVICE, PAUL LAURENCE DUNBAR POST OFFICE, Dayton, OH, Employer	)	

Appearances:
Alan J. Shapiro, 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 June 15, 2010 appellant filed a timely appeal from a May 4, 2010 merit decision of the Office of Workers' Compensation Programs. Pursuant to the Federal Employees' Compensation Act[1] and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a traumatic injury in the performance of duty on July 11, 2009.

FACTUAL HISTORY

On July 14, 2009 appellant, then a 49-year-old letter carrier, filed a traumatic injury claim alleging that his left knee "gave out" on July 11, 2009 as he was walking down a ramp to his

[1] 5 U.S.C. §§ 8101-8193.

postal vehicle. He did not stop work at that time. A witness statement corroborated that appellant's left knee buckled while he descended a ramp and commented that appellant complained of severe pain.[2]

A July 13, 2009 report from Dr. Ronald S. Klein, a Board-certified family practitioner and occupational physician, noted that appellant presented left knee pain. He was walking to his postal vehicle on July 11, 2009 when his left knee "just gave out." Appellant did not fall as he "caught himself" after stumbling. He stated that a similar episode occurred four years ago involving the right knee. On physical examination, Dr. Klein observed some crepitation and mild tenderness of the medial joint line. An x-ray showed medial joint line narrowing that was consistent with degenerative arthritis. Dr. Klein remarked, "I really do not see a mechanism here. What [I] really think is going on is a flare of his known degenerative joint disease. I have told him I do not feel this is work related as I see no mechanism of his injury." In a July 13, 2009 return-to-work form, he checked "no" in response to a question asking whether the condition was employment related and subsequently released appellant to restricted duty.

In a July 14, 2009 report from Dr. Jonathan J. Paley, a Board-certified orthopedic surgeon, appellant complained of bilateral knee pain. Appellant specified that he first experienced sharp pain in his left knee approximately one week earlier when he was walking down a ramp at the employing establishment and the knee buckled "for no apparent reason." Dr. Paley examined appellant's right knee and observed medial joint line tenderness, crepitation with active range of motion (ROM) and palpable bone spurs on the medial femoral condyle. He observed similar symptoms in appellant's left knee while also noting pain in the medial joint space. Dr. Paley diagnosed substantial aggravation of right knee osteoarthritis and left knee sprain. He opined, "I do feel that these problems with his knees directly occurred while on the job."

A July 31, 2009 left knee magnetic resonance imaging (MRI) scan interpreted by Dr. Ravi Cherukuri, a Board-certified diagnostic radiologist, revealed a small medial meniscal tear in a background of Grade 2 to 3 chondrosis and minor osteoarthritis of the medial compartment and Grade 2 to 3 cartilaginous fissuring overlying the medial facet of the patella with a moderate joint effusion.

On November 2, 2009 the Office informed appellant that the evidence was insufficient and advised him about the evidence needed to establish his claim. It did not receive additional evidence.

By decision dated December 4, 2009, the Office denied the claim, finding that appellant failed to establish fact of injury as the medical evidence did not establish that his claimed condition was causally related to his employment.

Appellant requested a telephonic hearing, which was held on March 1, 2010. At the hearing, he testified that he was walking down a ramp at the employing establishment on July 11,

[2] The Office previously accepted appellant's claims of a November 24, 2003 right medial collateral ligament strain, July 24, 2004 right medial collateral ligament strain and meniscus tear and May 22, 2008 bilateral knee contusion and right knee abrasion, among other conditions. These other claims are not presently before the Board.

2009 to deliver express mail when his left knee "just kind of buckled," causing him to hold onto the railing. Appellant denied any prior problems with his left leg and opined that his present condition may have arisen because he compensated for his right knee weakness for many years. He noted having work-related injuries to his right knee.

Appellant subsequently submitted several medical records. In a November 20, 2009 report, Dr. Paley stated that appellant presented with ongoing right knee pain. He stated an MRI scan showed a torn meniscus which appellant stated occurred when he descended a ramp and his left knee buckled. On physical examination of the left lower extremity, Dr. Paley observed medial joint tenderness to palpation, a positive McMurray test and an antalgic gait. He recommended an arthroscopy. In Dr. Paley's January 4, 2010 progress note, appellant exhibited a significant antalgic gait favoring the left leg, limited ROM and large left knee effusion necessitating an aspiration. He stated that appellant could not work for six weeks. In a January 29, 2010 treatment note, Dr. Paley reported continuing left knee effusion and findings on examination. A July 28, 2009 left knee x-ray performed by Dr. Richard Butler, a Board-certified diagnostic radiologist, showed advanced narrowing of the medial compartment.

Appellant filed a March 18, 2010 notice of recurrence alleging that his left knee buckled on March 15, 2010. He stopped work on March 15, 2010. The Office informed appellant in a March 22, 2010 letter that it was unable to process this application because his traumatic injury was not approved.

In a March 24, 2010 report, Dr. Paley noted ongoing right knee pain and left knee discomfort. He detailed that the right knee condition was "from a work injury on November 24, 2003" whereas the left knee condition was related to "an incident where [appellant] was walking down the ramp." Dr. Paley examined appellant's left knee and observed guarded movements on flexion and extension, moderate effusion and pain with the patella compression test. He also observed bilateral crepitation and medial joint line tenderness to palpation as well as an antalgic gait favoring the left lower extremity. Dr. Paley opined:

> "At this time, given this individual's episode of stumbling on the ramp combined with a long history over compensating for the problem in the right knee since 2003, I do feel that he has developed a flow through problem with the left. I do feel that this is related to his work injury and the continued problems with the right knee. I have discussed at length with the patient that there is no clear specific injury to the left and that the combination of overcompensation combined with the awkward stumbling on the ramp has contributed to the condition of the left knee. I do feel that this should be added to the claim and appropriately addressed medically."

By decision dated May 4, 2010, the Office hearing representative affirmed denial of the claim, finding the medical evidence insufficient to demonstrate a causal relationship between the July 11, 2009 work incident and the left knee injury.

LEGAL PRECEDENT

An employee seeking compensation under the Act has the burden of establishing the essential elements of his claim by the weight of reliable, probative and substantial evidence,[3] including that he is an "employee" within the meaning of the Act and that he filed his claim within the applicable time limitation.[4] The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.[5]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[6]

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes 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. The opinion of the physician must be based on a complete factual and medical background, 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.[7]

ANALYSIS

The evidence supports that appellant walked down a ramp at the employing establishment to his postal vehicle on July 11, 2009. However, appellant did not provide sufficient medical evidence to establish that his present left knee injury was due to walking down the ramp at work on July 11, 2009.

In a July 14, 2009 report, Dr. Paley assessed a left knee sprain and attributed it to appellant's knee buckling incident approximately a week earlier. In a March 24, 2010 report, he opined that appellant's "episode of stumbling on the ramp combined with a long history over compensating for the problem in the right knee since 2003," caused a "flow through problem with the left" was "related to his work injury and the continued problems with the right knee." Dr. Paley noted that there was "no clear specific injury to the left and that the combination of

[3] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

[4] *R.C.*, 59 ECAB 427 (2008).

[5] *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[6] *T.H.*, 59 ECAB 388 (2008).

[7] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

overcompensation combined with the awkward stumbling on the ramp has contributed to the condition of the left knee." He did not offer a pathophysiological explanation as to how the diagnosed sprain was caused or aggravated by walking on the ramp on July 11, 2009.[8] Medical opinion not fortified by medical rationale is of little probative value.[9] The need for rationale is particularly important in this case since Dr. Klein opined in a July 13, 2009 report that appellant's present condition was a flare-up of preexisting degenerative joint disease. Dr. Paley provided little support for a traumatic injury on July 11, 2009 and noted that there was no specific injury to the left knee. Rather, he appeared to support that the left knee condition arose over a number of years as a consequence of appellant's right knee condition.[10] Dr. Paley's other reports for the period November 20, 2009 to January 29, 2010 are also of limited probative value as none offered an opinion regarding the cause of injury.[11]

Appellant argues on appeal that the Office hearing representative's decision was contrary to fact and law. As noted, the medical evidence did not sufficiently explain the causal relationship between his left knee injury and federal employment. Therefore, appellant failed to meet his burden of proof.

CONCLUSION

The Board finds that appellant did not establish that he sustained a traumatic injury in the performance of duty on July 11, 2009.

[8] *See Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

[9] *George Randolph Taylor*, 6 ECAB 986, 988 (1954).

[10] A condition arising over more than one day or work shift would be an occupational disease. *See* 20 C.F.R. § 10.5(q). In this case, appellant filed a traumatic injury claim. A traumatic injury means a condition caused by a specific event or incident, or series of events or incidents, within a single workday or shift. 20 C.F.R. § 10.5(ee). To the extent that appellant asserts that his left knee condition is a consequence of a right knee condition, this matter should be addressed under the claim pertaining to appellant's right knee condition.

[11] *See J.F.*, Docket No. 09-1061 (issued November 17, 2009) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

ORDER

IT IS HEREBY ORDERED THAT the May 4, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 14, 2011
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