

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

---

**J.M., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Albany, NY, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 13-1647  
Issued: December 11, 2013**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

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

**JURISDICTION**

On July 1, 2013 appellant, through his attorney, filed a timely appeal from a May 30, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 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 had any employment-related disability commencing November 28, 2011.

**FACTUAL HISTORY**

On October 14, 2011 appellant, then a 48-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 5, 2011 he injured his left knee in the performance

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

of duty. He described the incident as taking a tray of mail out of the back of a truck and feeling a pull in his left knee. Appellant returned to full-duty work.

On December 5, 2011 appellant filed a notice of recurrence of disability commencing November 28, 2011 for time loss from work. In a report dated November 29, 2011, Dr. G. Robert Cooley, a Board-certified orthopedic surgeon, noted that appellant was having severe knee pain. He provided results on examination and recommended a magnetic resonance imaging (MRI) scan to determine if there was a meniscus tear. Dr. Cooley stated that “in the meantime” he was placing appellant off work.

In a report dated December 5, 2011, Dr. Cooley provided results on examination and reported that appellant continued to have knee pain. He stated that the MRI scan was not convincing for a meniscal tear but “showed a lot of bone marrow edema on the left medial femoral condyle. This could be a stress reaction, contusion or early AVN [avascular necrosis].” Dr. Cooley advised that appellant remained disabled for work. By report dated February 14, 2012, he found that appellant could return to full duty as of February 15, 2012.

By decision dated April 20, 2012, OWCP denied appellant’s claim for compensation. It found the evidence insufficient to establish an incident on October 5, 2011 as alleged.

Appellant requested a hearing before an OWCP representative, which was held on August 14, 2012. Appellant stated that he was reaching into the back of the truck when his left knee hyperextended. In a report dated April 25, 2012, Dr. Cooley reported that appellant stated that he did not have problems before an October 5, 2011 work injury. He provided results on examination and diagnosed a right knee sprain with contusion with likely early AVN. Dr. Cooley found that appellant could continue to work full time. He stated, “It is felt that his left knee injury was related to the work incident on [October 5, 2011]. Subjective symptoms and objective findings are consistent.” In a report dated July 18, 2012, Dr. J.D. Abraham, a Board-certified orthopedic surgeon, provided a history that appellant hyperextended his left knee at work on October 5, 2011. He stated that pain had not fully resolved and disability was partially related to the October 2011 incident.

By decision dated September 20, 2012, an OWCP hearing representative found that the medical evidence was sufficient to establish a left knee sprain as employment related. He found that there was no evidence disputing that the October 5, 2011 incident occurred as alleged. Further, the reports from Dr. Cooley were sufficient to establish causal relationship regarding a left knee sprain. As to AVN, the hearing representative found this condition was not established as employment related.

In a report dated October 8, 2012, Dr. Cooley diagnosed left medial AVN and chondromalacia. He stated that appellant continued to have a significant knee problem. On October 9, 2012 OWCP accepted a left knee sprain. It advised appellant to submit medical evidence with respect to any claimed disability.

By decision dated November 29, 2012, OWCP denied the claimed recurrence of disability commencing November 28, 2011. It found the medical evidence was insufficient to establish disability due to the October 5, 2011 injury.

Appellant requested a hearing before an OWCP hearing representative, which was held on March 14, 2013. In a report dated March 15, 2013, Dr. Cooley stated that appellant had injured his knee “while loading a truck” on October 5, 2011. He noted that the MRI scan showed marrow edema consistent with stress reaction, contusion or early AVN. Dr. Cooley stated, “There is no definitive knowledge as to what causes AVN. His marrow edema could be interpreted as AVN, trauma, or just injury, all consistent, though, in starting with his work-related injury.” In a report dated March 21, 2013, Dr. Cooley stated that appellant reported the original injury occurred while getting into the truck. He stated that he had explained in his last note what AVN was and how it might be related to appellant’s injury.

By decision dated May 30, 2013, the hearing representative affirmed the November 29, 2012 decision. She found that the medical evidence was insufficient to establish a recurrence of disability as of November 28, 2011. Dr. Cooley’s opinion on causal relationship was found equivocal.

### **LEGAL PRECEDENT**

A person who claims a recurrence of disability<sup>2</sup> due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable, and probative evidence that the disability for which he claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.<sup>3</sup>

### **ANALYSIS**

OWCP accepted that appellant sustained a left knee sprain in the performance of duty on October 5, 2011. He has stated that he was reaching into the back of a truck when his left knee hyperextended and caused pain. It is appellant’s burden of proof to establish that his disability commencing November 28, 2011 was related to the accepted injury.

Appellant submitted medical evidence from Dr. Cooley with respect to his left knee treatment. As to the question of disability for work commencing November 28, 2011 to approximately February 15, 2012, Dr. Cooley did not provide a medical opinion sufficient to meet appellant’s burden of proof. With respect to providing a complete factual and medical history, the Board notes that Dr. Cooley did not provide a detailed description of the October 5, 2011 incident. Dr. Cooley’s reports briefly referred to loading a truck, and in the March 21, 2013 report he stated that appellant was getting into a truck. He did not discuss the mechanism of injury or demonstrate that he clearly understood that appellant was reaching into the back of the truck and felt left knee pain from extending the knee.

---

<sup>2</sup> A recurrence of disability means “an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.” 20 C.F.R. § 10.5(x).

<sup>3</sup> *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

The Board finds that Dr. Cooley's opinion as to the relationship between appellant's disability and the employment injury is equivocal and not supported by sound medical rationale. In the December 5, 2011 report, he noted that an MRI scan showed bone marrow edema which could have three possible causes: AVN, contusion or stress reaction. AVN is not an accepted condition. Dr. Cooley stated in the March 21, 2013 report that in a letter to appellant's attorney, dated March 15, 2013, he had explained what AVN was and how it might be employment related. His March 15, 2013 report stated only that there was no "definitive knowledge" as to the cause of AVN. Dr. Cooley did not adequately explain the nature of AVN or explain why it was caused by the specific activity on October 5, 2011. The evidence is not sufficient to establish AVN as employment related.

With respect to a contusion, appellant did not describe a contusion nor has OWCP accepted a contusion with respect to the October 5, 2011 employment injury. If Dr. Cooley feels there was a contusion from the employment injury that caused disability commencing November 28, 2011, then he must support such an opinion with additional explanation.

Dr. Cooley also refers to a possible stress reaction as causing the left knee edema. He did not explain how the stress or trauma from the October 5, 2011 incident caused disability commencing November 28, 2011 related to the accepted employment injury. The brief statement in the March 15, 2013 report that the edema "could be interpreted as [AVN], trauma, or just injury" and that all of these "start[ed] with his work[-]related injury" is not a rationalized medical opinion. Dr. Abraham briefly stated in a July 18, 2012 report that appellant had disability partially related to an October 2011 injury, without discussing the period claimed or providing additional detail and explanation.

The Board finds that the evidence of record does not provide a rationalized medical opinion, based on a complete background, as to an employment-related disability commencing November 28, 2011. The Board finds that appellant did not meet his burden in this case.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not established an employment-related disability commencing November 28, 2011.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 30, 2013 is affirmed.

Issued: December 11, 2013  
Washington, DC

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

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

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