

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

---

N.O., Appellant )

and )

U.S. POSTAL SERVICE, MAIN POST OFFICE, )  
Quincy, IL, Employer )

---

**Docket No. 13-2117**  
**Issued: February 18, 2014**

*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  
ALEC J. KOROMILAS, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On September 16, 2013 appellant, through her attorney, filed a timely appeal of an August 1, 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 to consider the merits of the case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a knee condition due to her job duties.

On appeal counsel argued that appellant had submitted sufficient medical evidence to require further development by OWCP.

---

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

## **FACTUAL HISTORY**

On October 19, 2012 appellant, then a 52-year-old city carrier, filed an occupational disease claim alleging that on July 5, 2012 she became aware that her October 18, 2010 condition was caused or aggravated by her federal employment. She stated that walking with a heavy mailbag on uneven surfaces resulted in her condition. Appellant also noted that she originally believed that this was a recurrence of a May 2012 employment injury.<sup>2</sup>

In support of her claim, appellant submitted a report dated July 5, 2012 from Dr. David Bingham, an osteopath, who reported her bilateral knee pain for four to five years worsened by carrying her mailbag while walking on uneven surfaces and traversing stairs. Dr. Bingham found that she walked with a limp on the right and had limited range of motion in her right knee with normal strength. He reported significant patellar crepitus bilaterally and strongly positive patellar grind test on the right. Dr. Bingham reviewed x-rays and diagnosed tricompartmental osteoarthritis with full-thickness joint loss in the right knee and on the left less loss of cartilage height. He diagnosed bilateral knee osteoarthritis. Dr. Bingham stated, "This patient has pretty advanced osteoarthritis of her knees for someone her age. Given her lack of history of major trauma, I think it is reasonable to assume that a significant component is wear. It has to do with her carrying a heavy load for over two decades for the [employing establishment]."

Appellant stated that she had worked for the employing establishment for 31 years and had been a letter carrier for 28 years. She stated that she was required to walk on uneven ground, up and down steps and through ice and snow. Appellant noted that she was required to carry a mailbag and attributed her knee conditions to these activities.

In a letter dated November 16, 2012, OWCP requested additional factual and medical evidence in support of appellant's claim. Appellant submitted an additional statement describing her job duties on July 4, 2012 including carrying a mailbag weighing up to 30 pounds for six hours a day while walking 6 to 10 miles. She stated that walking through snow and ice, on uneven ground, climbing steps, stooping and bending were hard for her and contributed to her knee condition.

Dr. Bingham completed a note on August 23, 2012 and diagnosed bilateral knee osteoarthritis.

In a report dated December 10, 2012, Dr. Bingham noted that he first examined appellant on July 5, 2012 due to her bilateral knee conditions. He described her employment duties as a mail carrier of 20 years including carrying a heavy bag up and down stairs and while long distance walking. Dr. Bingham found severely limited range of motion in appellant's right knee with prominent patellar crepitus on active and passive range of motion of both knees. He reviewed x-rays which demonstrated severe tricompartmental arthritis especially in the

---

<sup>2</sup> The record reveals that appellant filed a claim for a left knee injury for which OWCP assigned File No. xxxxxx140.

patellofemoral compartment of both knees with considerable loss of joint space. Dr. Bingham diagnosed severe osteoarthritis of bilateral knees worse on the right. He stated:

“As for the cause of this disease, lacking significant history of trauma and severity of the arthritis, certainly a long history of load bearing is likely a considerable contributing factor to this. It is certainly unusual to have arthritis this severe in a patient this young and fit with no significant history of knee injury. I suspect that especially the need to carry heavy loads up and down stairs is a significant contributing factor to her arthritis and certainly her need to continue doing so is her major exacerbating factor at this time.”

OWCP denied appellant’s claim by decision dated January 24, 2013. It found that Dr. Bingham’s reports addressing a causal relationship between her duties and her condition were speculative and equivocal.

Counsel requested an oral hearing on February 1, 2013. Dr. Bingham submitted a report dated March 26, 2013 and stated that he was unable to provide a specific cause or relationship of her osteoarthritis. He opined that there was a possibility that appellant’s mail carrying was a contributing factor, but that he could not state that this was the only or even dominant factor and it was difficult given the many possible causes of osteoarthritis and the fact that it was a degenerative disease.

Appellant testified at the oral hearing on May 17, 2013 that she had undergone knee replacement surgery on the left on March 27, 2013 and on the right on April 18, 2013. She also submitted a newspaper article regarding her knee replacements.

By decision dated August 1, 2013, the hearing representative found that Dr. Bingham’s reports were not sufficient to establish a causal relationship between appellant’s diagnosed condition and her employment.

### **LEGAL PRECEDENT**

OWCP’s regulations define an occupational disease as “a condition produced by the work environment over a period longer than a single workday or shift.”<sup>3</sup> 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 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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors.

---

<sup>3</sup> 20 C.F.R. § 10.5(q).

The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.<sup>4</sup>

### ANALYSIS

Appellant has submitted medical evidence from Dr. Bingham diagnosing bilateral knee osteoarthritis and submitted factual statements attributing her knee conditions to her employment duties as a mail carrier including walking on uneven surfaces and up and down stairs for multiple years while carrying up to 30 pounds. However, the Board finds that appellant has not submitted sufficient medical evidence to establish a causal relationship between her diagnosed condition and her employment duties.

Appellant submitted a series of reports from Dr. Bingham addressing the relationship between her employment duties and her knee condition. Beginning in July 2012, Dr. Bingham stated, “Given her lack of history of major trauma, I think it is reasonable to assume that a significant component is wear, it has to do with her carrying a heavy load for over two decades for the [employing establishment].” He also opined in December 2012 that her long history of load bearing was “likely” a contributing factor to bilateral knee osteoarthritis. Dr. Bingham stated, “It is certainly unusual to have arthritis this severe in a patient this young and fit with no significant history of knee injury. I suspect that especially the need to carry heavy loads up and down stairs is a significant contributing factor to her arthritis....” However, in his most recent report dated March 26, 2013, Dr. Bingham stated that he was unable to provide a specific cause or relationship of her osteoarthritis. He suggested that there was a possibility that appellant’s mail carrying was a contributing factor, but concluded that he could not state that this was the only or even dominant factor given the many possible causes of osteoarthritis and the degenerative nature of the disease.

The Board finds that Dr. Bingham’s reports are equivocal on the relationship between appellant’s diagnosed condition and her employment. He initially offered supportive opinion evidence throughout 2012, but in his more recent report, he suggests that there are many possible causes of osteoarthritis and that he could not clearly attribute appellant’s condition to her work. While it is not necessary for Dr. Bingham to find that appellant’s work was the only or dominant factor in her knee osteoarthritis as he suggests, he must provide a clear, consistent and unequivocal statement that he believes that her work duties contributed in some way to her diagnosis and must provide medical reasoning explaining how and why he reached his conclusion in order to meet appellant’s burden of proof. Given that his most recent opinion on causal relationship is substantially less supportive of appellant’s claim, the Board finds that his reports are not sufficient to meet appellant’s burden of proof and do not require further development by OWCP.

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.

---

<sup>4</sup> *Lourdes Harris*, 45 ECAB 545, 547 (1994).

**CONCLUSION**

The Board finds that appellant has not submitted the necessary medical opinion evidence to establish causal relationship between her diagnosed condition and her implicated employment duties required to establish her occupational disease claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 1, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 18, 2014  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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