United States Department of Labor
Employees' Compensation Appeals Board

K.R., Appellant	)	
and	)	**Docket No. 14-580**
	)	**Issued: July 10, 2014**
U.S. POSTAL SERVICE, POST OFFICE, Federal Way, WA, Employer	)	

Appearances:
Appellant, pro se
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 January 23, 2014 appellant filed a timely appeal from the December 12, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 met her burden of proof to establish that her bilateral knee condition is causally related to factors of her federal employment.

FACTUAL HISTORY

On September 20, 2013 appellant, then a 55-year-old rural mail carrier, filed an occupational disease claim alleging joint disease in her knees as a result of walking, standing and carrying heavy packages in the performance of duty. Her knee condition began on February 13,

[1] 5 U.S.C. § 8101 *et seq.*

2013 and that she first became aware of its relation to her work on that date. Appellant stopped work on July 12, 2013.

In a September 10, 2013 statement, appellant noted that, in February 2013, she complained to her primary physician that her "knee hurt a lot." Her duties included standing, lifting, walking and carrying heavy packages. Appellant noted that her duties affected both knees and that she did not lose time from work until July 11, 2013. She underwent bilateral knee replacement surgery on August 16, 2013.

By letters dated September 24, 2013, OWCP advised appellant and the employing establishment that additional factual and medical evidence was needed.

In a July 25, 2013 disability certificate, Dr. Regan B. Hansen, a Board-certified orthopedic surgeon, advised that appellant could not return to work. In a September 12, 2013 note, he advised that he was answering the question as to whether her arthritis was caused or aggravated by employment. Dr. Hansen explained that appellant had a "degenerative process and on a more probable than not basis this is more genetic in origin, but it has probably been aggravated by her job requiring walking and repetitive trauma." He noted that this was based on how far she was walking, explaining that "[i]f [appellant] were walking 10 miles a day, I think this would obviously be much more aggravating than someone who had a sedentary job. I am unaware of the amount of walking required for her job. I would apportion 75 percent of this due to genetics and 25 percent due to aggravating circumstances that could be work related, depending on the distance required to walk on a daily basis."

In a letter dated October 3, 2013, Larry Beauchamp, the postmaster, noted that appellant had knee replacement surgery to both knees on August 16, 2013. Appellant alleged that her condition was work related and was due to standing, walking and lifting heavy packages. Mr. Beauchamp advised that she stood for approximately two to two and a half hours in the morning while casing mail. The remainder of appellant's six and a half hour day was spent delivering mail from her car. Mr. Beauchamp noted that she might be required to walk during the driving portion of her day to deliver a package to a customer's door. This would require that appellant get in and out of her vehicle several times a day. Mr. Beauchamp explained that, after returning from her route, she would have to return all outgoing mail and empty equipment at the employing establishment. He noted that this required that appellant walk from her car to the employing establishment, "about 20 feet." Appellant was also required to lift packages up to 75 pounds with assistance when requested.

In an October 8, 2013 report, Dr. Andrew F. Jones, a family practitioner and osteopath, noted that appellant was first seen in February 2013. Appellant had bone on bone with recommendations for a total knee replacement, for which an orthopedic consultation was warranted.

In a November 18, 2013 conference call, OWCP noted that appellant had worked at the employing establishment for 14 years and had not held any other jobs. Appellant indicated that she worked six days a week and had no hobbies because she did not have time for anything else. When not at work, she cleaned house and helped out from time to time at a ranch her husband owned with his brother. Appellant helped feed hay to the animals but did not lift any of the bales

and she also helped to vaccinate young calves. Until about 20 years prior, she drove a hay truck but she stopped driving the truck as she could not use the clutch because of her knees. In a November 21, 2013 telephone memorandum, appellant advised that she also had a few jobs during her employment at the employing establishment. She provided an update of her jobs from October 2002 to November 2007. They included part-time work at a casino as a drop crew member; a dishwasher working three days a week; and loading bales of hay with tractors.

In a November 14, 2013 work restriction certificate, Dr. Hansen diagnosed bilateral total knee replacement. He noted that appellant could not return to work until after January 15, 2014.

A November 18, 2013 x-ray of the left knee read by Dr. Dean Easton, a Board-certified diagnostic radiologist, revealed marked degenerative joint disease involving the medial compartment with cartilage loss, as well as the patellofemoral compartment. Accompanying the copy of his February 13, 2013 x-ray report was a note listing marked degenerative joint disease of the left knee.

In a November 19, 2013 letter to Dr. Hansen, OWCP requested that he provide further medical opinion as to whether appellant's bilateral knee degenerative arthritis was caused her federal employment. It provided a description of her work duties.[2]

In a November 19, 2013 response, Dr. Hansen, responded:

> "As to the question is [appellant's] walking on concrete at work directly related to her arthritis on a more probable than not basis. Her genetics have a much stronger relation to the arthritis than does her job where there was a substantial injury or severe trauma. Walking on concrete in and of itself or jogging or prolonged walking is not a cause of degenerative arthritis. It can aggravate symptoms. It can make them worse once they occur. But as to the causative agent, it is either trauma or genetics."

By decision dated December 12, 2013, OWCP denied appellant's claim. It found that the medical evidence was not sufficient to establish that her bilateral knee condition was related to her work-related duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related

[2] A copy was provided to appellant and the employing establishment.

[3] 5 U.S.C. §§ 8101-8193.

to the employment injury.[4] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[5]

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 medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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 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.[6]

ANALYSIS

The record reveals that appellant has a bilateral knee condition. Her work involved activities such as walking, standing, lifting and carrying heavy packages at work. The Board finds that appellant submitted insufficient medical evidence to establish that her bilateral knee condition was caused or aggravated by her work activities as a rural mail carrier.

Appellant submitted various reports from Dr. Hansen. On September 12, 2013 Dr. Hansen addressed the question as to whether her arthritis was caused or aggravated by her employment. He stated that appellant had a "degenerative process and on a more than probable not basis this is more genetic in origin, but it has probably been aggravated by her job requiring walking and repetitive trauma." Dr. Hansen explained that "[i]f [appellant] were walking 10 miles a day, I think this would obviously be much more aggravating than someone who had a sedentary job. I am unaware of the amount of walking required for her job. I would apportion 75 percent of this due to genetics and 25 percent due to aggravating circumstances that could be work related, depending on the distance required to walk on a daily basis." The Board finds that Dr. Hansen's opinion on causal relation is speculative. Dr. Hansen stated that he was unaware of the actual amount of walking required in her rural carrier position and selected a random percentage. The Board has held that medical opinions which are speculative or equivocal are of

[4] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

[6] *Id.*

diminished probative value.[7] Dr. Hansen did not provide adequate medical rationale in addressing the relationship between appellant's current knee conditions and the accepted employment work duties.[8]

On November 19, 2013 OWCP provided Dr. Hansen with a description of appellant's job duties and asked him to clarify his opinion on causal relation. In a November 19, 2013 response, Dr. Hansen stated that her work on concrete was related to her arthritis on a more probable than not basis. Further, appellant had a strong genetic element such that her work did not cause degenerative arthritis. Dr. Hansen stated "that work can aggravate symptoms. It can make them worse once they occur. But as to the causative agent, it is either trauma or genetics." The Board finds that Dr. Hansen's opinion remains speculative. He did not state to a reasonable degree of medical certainty that appellant's condition was caused or aggravated by her specific work duties. The Board has found that unrationalized medical opinions on causal relationship are of diminished probative value.[9]

Similarly, the other medical evidence submitted by appellant is similarly deficient. The evidence of record lacks a physician's reasoned opinion supporting that factors of her employment caused or contributed to her bilateral knee condition.

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.[10] 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.[11] Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

There is insufficient medical evidence explaining how appellant's employment duties caused or aggravated her bilateral knee condition. She has not met her burden of proof in establishing that her knee condition is causally related to factors of his employment.

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.

[7] *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (the Board has generally held that opinions such as the condition is probably related, most likely related or could be related are speculative and diminish the probative value of the medical opinion); *Cecilia M. Corley*, 56 ECAB 662 (2005) (medical opinions which are speculative or equivocal are of diminished probative value).

[8] *Robert Broome*, 55 ECAB 339 (2004).

[9] *Albert C. Brown*, 52 ECAB 152 (2000).

[10] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[11] *Id.*

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 12, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 10, 2014
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