

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

Y.C., Appellant)
and) Docket No. 15-0327
U.S. POSTAL SERVICE, COLLEGE PARK) Issued: July 27, 2015
POST OFFICE, Atlanta, GA, Employer)

)

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 1, 2014 appellant filed a timely appeal from a November 18, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 OWCP properly terminated appellant's wage-loss and medical compensation benefits effective November 18, 2014 as the accepted injuries had ceased without residuals.

FACTUAL HISTORY

This is the third appeal before the Board in this case. Pursuant to the first appeal, by order dated May 30, 2003, the Board remanded the case to OWCP for additional development

¹ 5 U.S.C. § 8101 *et seq.*

regarding an overpayment of compensation.² By decision dated May 25, 2004,³ the Board affirmed OWCP's September 15, 2013 decision regarding an overpayment of compensation for the period November 14 through December 1, 2001. The law and facts of the case as forth in the Board's prior decision and order are incorporated by reference.

OWCP accepted that on October 1, 1990 appellant, then a 36-year-old letter carrier, sustained bilateral knee sprains with internal derangement. It later expanded the claim to accept bilateral derangement of the posterior horn of the medial meniscus and secondary bilateral knee osteoarthritis.

Appellant underwent a left knee arthroscopy on December 18, 1990 and a right knee arthroscopy on July 8, 1991 to repair bilateral meniscal tears and a torn right anterior cruciate ligament. He returned to light-duty work on July 25, 1991. Appellant remained under treatment. He underwent a repeat left knee arthroscopy on June 6, 1995 to address degenerative issues. Appellant subsequently returned to light-duty work. He remained under medical treatment for post-traumatic degenerative arthritis of both knees.

Dr. Thomas R. Cadier, an attending Board-certified orthopedic surgeon, followed appellant beginning in September 2007. He diagnosed post-traumatic degenerative arthritis of both knees and prescribed work restrictions through April 2010.

OWCP accepted a recurrence of disability commencing August 16, 2010 as the employing establishment withdrew appellant's light-duty position under the National Reassessment Process. It authorized total disability compensation beginning on August 16, 2010.⁴ Appellant did not return to work.⁵

Dr. Cadier submitted periodic reports through 2013 noting active post-traumatic osteoarthritis of both knees, with bilateral patellofemoral crepitus and mild quadriceps atrophy. He noted that work limitations on climbing and heavy lifting remained necessary due to bilateral knee arthritis. Although, in a report dated September 22, 2014, Dr. Cadier found that x-rays demonstrated only "minimal" arthritis in appellant's knees. He opined that the accepted conditions remained active and partially disabling, requiring ongoing care and work restrictions.

On April 1, 2014 OWCP obtained a second opinion from Dr. Alexander N. Doman, a Board-certified orthopedic surgeon, who reviewed the medical record and a statement of accepted facts. On examination of both knees, Dr. Doman found a full range of motion, no

² Docket No. 03-620 (issued May 30, 2003).

³ Docket No. 04-528 (issued May 25, 2004).

⁴ On June 28, 2011 OWCP obtained a second opinion from Dr. Harold H. Alexander, a Board-certified orthopedic surgeon, who obtained x-rays showing patellofemoral degenerative changes and minimal spurring. Dr. Alexander diagnosed bilateral knee osteoarthritis, causally related to the accepted injuries. He opined that appellant was able to perform full-time light duty. On August 8, 2011 OWCP obtained a functional capacity evaluation showing that appellant could perform full-time light-duty work.

⁵ From May 2012 through July 2013, appellant participated in a vocational rehabilitation program and completed English as a second language course. He did not obtain employment.

instability, no swelling, normal anterior cruciate ligament testing, and “vague subjective tenderness over the patellar facet of both knees.” He diagnosed resolved bilateral knee sprains and internal derangement. Dr. Doman explained that x-rays demonstrated no osteoarthritis in the right knee, with only minor, clinically insignificant osteoarthritis in the left knee. He opined that appellant required no further medical treatment and could return to full, unrestricted duty as a letter carrier.

By notice dated September 4, 2014, OWCP advised appellant that it proposed to terminate his wage-loss and medical compensation benefits as the accepted bilateral knee conditions had ceased without residuals, based on Dr. Doman’s opinion as the weight of the medical evidence. It afforded him 30 days to submit additional evidence and argument.

Appellant submitted a September 22, 2014 report from Dr. Cadier, who noted that appellant continued to have crepitus in both knees, with degenerative patellofemoral arthritis visible on x-rays. Dr. Cadier prescribed anti-inflammatory medication and renewed prior work restrictions.

By decision dated November 18, 2014, OWCP terminated appellant’s wage-loss and medical compensation benefits effective that day as the accepted knee sprain had ceased without residuals. It accorded Dr. Doman the weight of the medical evidence.

LEGAL PRECEDENT

Once OWCP has accepted a claim and pays compensation, it bears the burden of proof to justify modification or termination of benefits.⁶ Having determined that an employee has a disability causally related to his or her federal employment, it may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.⁷

ANALYSIS

OWCP accepted that appellant sustained bilateral knee sprains with internal derangement, bilateral derangement of the posterior horn of the medial meniscus, and secondary bilateral knee osteoarthritis. Appellant underwent a right knee arthroscopy and two left knee arthroscopies to address the meniscal tears and degenerative joint disease. OWCP terminated appellant’s wage-loss and medical compensation benefits effective November 18, 2014, based on the opinion of Dr. Doman, a Board-certified orthopedic surgeon and second opinion physician, who found the accepted conditions had ceased without residuals.

Appellant submitted numerous reports from Dr. Cadier, an attending Board-certified orthopedic surgeon, who followed appellant from 2007 through 2013. Dr. Cadier noted bilateral patellofemoral crepitus and mild quadriceps atrophy. He opined that appellant required work restrictions against climbing and heavy lifting due to post-traumatic degenerative arthritis of both

⁶ *Bernadine P. Taylor*, 54 ECAB 342 (2003).

⁷ *Id.*

knees. However, Dr. Cadier did not explain how and why the accepted conditions partially disabled appellant on and after November 18, 2014, or require continuing medical treatment. Also, he did not explain why the diagnosed osteoarthritis, which he noted as “minimal,” warranted work limitations.

In contrast, Dr. Doman explained that appellant no longer required work restrictions as the accepted conditions had resolved. Following a thorough clinical examination, he explained that the only abnormality he observed in either knee was vague subjective tenderness over the patellar facet. Dr. Doman obtained x-rays demonstrating subclinical osteoarthritis of the left knee, with no osteoarthritis in the right knee. In a four-page report, he also based his opinion on a detailed review of the medical record and a statement of accepted facts. Dr. Doman found nothing in appellant’s history, test results, or clinical presentation that precluded him from returning to full duty as a letter carrier.

The Board finds that OWCP properly accorded Dr. Doman’s opinion the weight of the medical evidence. Dr. Doman was clear in his findings and opinions and provided a detailed explanation as to why the accepted conditions were no longer present or active. His opinion was also based on a complete and accurate factual and medical history. OWCP’s November 18, 2014 decision terminating appellant’s wage-loss and medical benefits was therefore proper under the law and facts of this case.

CONCLUSION

The Board finds that OWCP properly terminated appellant’s compensation benefits effective November 18, 2014.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 18, 2014 is affirmed.

Issued: July 27, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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