United States Department of Labor
Employees' Compensation Appeals Board

J.M., Appellant	)	
and	)	**Docket No. 15-1906**
	)	**Issued: January 7, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Northvale, NJ, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On September 18, 2015 appellant filed a timely appeal from a September 8, 2015 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 has met his burden of proof to establish an occupational disease in the performance of duty.

FACTUAL HISTORY

On May 22, 2015 appellant, then a 55-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a bilateral knee condition in the performance of duty. He claimed that walking at work aggravated his condition. Appellant noted that he first

[1] 5 U.S.C. § 8101 *et seq.*

became aware of his condition and its relation to his federal employment on September 9, 2013. He retired on May 1, 2015.

In a March 25, 2015 report, Dr. Raphael Longobardi, a Board-certified orthopedic surgeon, advised that appellant had been under his care since January 24, 2013 for knee pain. He detailed appellant's past surgical history and opined that his job requirements of standing and walking had some causation with the progression of his arthrosis in the meniscectomized knee, but the extent could not be determined.

By letter dated July 17, 2015, OWCP advised appellant of the type of evidence needed to establish his claim. Appellant was notified that he had 30 days from the date of the letter to submit responsive evidence.

In an August 4, 2015 response to an OWCP questionnaire, appellant advised that his route was approximately nine miles. He contended that he walked up to six and a half hours a day for five to six days per week. Appellant noted that in his 32 years of work for the employing establishment he underwent five knee surgeries and that the more he walked the worse his knee became. He alleged that he had no prior leg problems before he began work for the employing establishment and reiterated that this condition was work related.

On March 23, 2015 Dr. Longobardi advised that appellant was one year post left total knee replacement and eight months post excision of heterotrophic ossification of the left knee. He noted that appellant was able to return to work, walk, and stand without difficulty. Examination of the right knee revealed neutral alignment, no swelling, no effusion, no erythema, a well-healed surgical line, no pain to palpation, no tenderness, extension stopping at 0 degrees, and flexion to 110 degrees. Examination of the left knee revealed mild genu varum, no swelling, no effusion, no erythema, no ecchymosis, nonspecific tenderness on palpation, extension stopping at 0 degrees, and flexion to 115 degrees. An x-ray of the left knee revealed anatomically acceptable position alignment of total knee prosthetic compromise with no obvious evidence of loosening, change in position, or change in alignment. Dr. Longobardi reiterated his diagnosis of knee osteoarthritis and his opinion that appellant's job requirements of standing and walking had some causation with the progression of his arthrosis but he could not determine to what extent.

By decision dated September 8, 2015, OWCP denied appellant's claim because the medical evidence was insufficient to establish that he sustained an injury causally related to factors of his employment.

On appeal appellant argues that his knee condition was work related. He reiterates that he walked nine miles per day for 32 years and that his knees were perfect before he began work for the employing establishment. Appellant also notes that his knee condition forced him to retire.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden to establish 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, that an injury was sustained in the performance of duty as alleged, and that any

disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.[2] 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.[3]

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established. To establish an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[4]

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 generally required to establish causal relationship. 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.[5] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

ANALYSIS

There is no dispute that appellant walked as a part of his job. Therefore, the Board finds that the first component of fact of injury is established. However, the medical evidence is insufficient to establish that factors of his employment caused or aggravated appellant's bilateral knee condition.

In his March 23, 2015 report, Dr. Longobardi advised that appellant was one year post left total knee replacement and eight months post excision of heterotrophic ossification of the left knee. He noted that appellant was able to return to work, walk, and stand without difficulty. Dr. Longobardi assessed knee osteoarthritis and opined that appellant's job requirements of standing and walking had some causation with the progression of his arthrosis in the meniscectomized knee but the extent could not be determined. Likewise, in his March 25, 2015 report, he opined that appellant's job requirements of standing and walking had some causation with the progression of his arthrosis in the left knee but the extent could not be determined. These reports are not sufficiently rationalized as they do not explain the mechanics by which workplace walking and standing aggravated appellant's condition. The Board has long held that

[2] *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

[4] *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

[5] *I.J.*, 59 ECAB 408 (2008); *supra* note 3.

[6] *James Mack*, 43 ECAB 321 (1991).

medical opinions not containing rationale on causal relation are of diminished probative value and are generally insufficient to meet appellant's burden of proof.[7]

On appeal appellant disagrees with OWCP's decision and reiterates that his condition was job related. However, the claim is deficient because appellant has not submitted medical evidence explaining how the established work factors caused or contributed to the diagnosed condition. As noted, causal relationship is a medical question that must be established by probative medical opinion from a physician.[8]

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 met his burden of proof to establish an occupational disease in the performance of duty.

[7] *Carolyn F. Allen*, 47 ECAB 240 (1995).

[8] *See supra* note 5. *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also S.T.*, Docket No. 11-237 (issued September 9, 2011).

ORDER

IT IS HEREBY ORDERED THAT the September 8, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 7, 2016
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board