

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

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**T.W., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Pueblo, CO, Employer**

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**Docket No. 16-0727  
Issued: June 7, 2016**

*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  
ALEC J. KOROMILAS, Alternate Judge

**JURISDICTION**

On March 1, 2016 appellant timely appealed the January 21, 2016 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 appellant's claim.<sup>2</sup>

**ISSUE**

The issue is whether appellant sustained injury to his lower extremity causally related to factors of his federal employment.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193 (2006).

<sup>2</sup> The record on appeal contains evidence received after OWCP issued its January 21, 2016 decision. However, the Board is precluded from considering evidence that was not in the case record at the time OWCP issued its final decision. 20 C.F.R. § 501.2(c)(1) (2014).

## **FACTUAL HISTORY**

Appellant, a 45-year-old retired city carrier, filed an occupational disease claim (Form CA-2) on November 4, 2015 alleging that he injured his leg in December 2006 performing his duties as a letter carrier. He alleged that he needed surgery and was subsequently forced to retire. The employing establishment represented that appellant was currently retired, but did not identify the effective date of his retirement. The claim also included an October 27, 2007 postal service Form 50 that identified him as a full-time city carrier.

On November 24, 2015 OWCP acknowledged receipt of appellant's claim and explained that the evidence received to date was insufficient. Specifically, it noted that he had yet to submit any medical evidence with a diagnosis linked to his employment activities. OWCP also noted that appellant had not submitted any factual information regarding specific employment duties that allegedly contributed to his claimed leg condition. It afforded him at least 30 days to submit the required factual and medical evidence in support of his claimed injury.

OWCP subsequently received a January 21, 2010 right knee x-ray report. The radiologist noted a history of a previous surgery and current findings that could represent postoperative periosteal new bone formation in the area of the medial femoral condyle.<sup>3</sup>

The record also included a February 9, 2010 report from Concentra, which referenced appellant's knee surgery and a gait problem. The content of the report and the identity of the author are largely indecipherable.

OWCP also received a November 12, 2015 attending physician's report (Form CA-20) from Dr. Alex Constantinides, a family practitioner. Dr. Constantinides diagnosed status post July 2007 total knee arthroplasty.<sup>4</sup> He reported a 2006 injury, which appellant described as a gradual onset of pain while walking normal routes. Dr. Constantinides explained that appellant had not been his patient in 2006, and it was not until 2014 that he began providing primary care follow-up treatment. He noted having seen appellant on four occasions between January 9 and June 22, 2015. Dr. Constantinides also noted that appellant had suffered a traumatic brain injury and multiple orthopedic injuries in 2007 and 2009, but these injuries reportedly postdated appellant's symptoms of knee pain.

On November 23, 2015 the employing establishment challenged appellant's claim due to a preexisting condition that was unrelated to his employment.

Appellant's employing establishment also provided OWCP a copy of a February 14, 2005 rating decision from the Department of Veterans Affairs, which found a 10 percent rating for service-connected tinnitus, but found that his right knee condition and bilateral hearing loss were not service connected.

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<sup>3</sup> Dr. John C. Lemon, a Board-certified radiologist with a subspecialty in nuclear radiology, interpreted appellant's January 21, 2010 x-ray.

<sup>4</sup> Dr. Constantinides did not specify whether the arthroplasty involved the left or right knee.

OWCP also received a position description for city carrier, as well as a job analysis/essential functions report that described a letter carrier's delivery and casing duties.

Mike Hurley, appellant's former supervisor through March 2008, provided an undated statement describing appellant's duties on route 310. He noted that appellant's delivery duties consisted of about 45 minutes standing at a neighborhood box unit, and about five and one-quarter hours walking on a park and loop. Mr. Hurley also noted that appellant was required to case mail for about two hours while standing and that appellant frequently worked overtime carrying for another route. He recalled that appellant had issues with his knee, but did not recall the extent. Mr. Hurley also indicated that he did not believe appellant filed a CA-2 form at the time.

By decision dated January 21, 2016, OWCP denied appellant's occupational disease claim as he had not established fact of injury.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.<sup>5</sup>

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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 diagnosed condition is causally related to the identified employment factors.<sup>6</sup>

### **ANALYSIS**

Appellant claimed that his employment duties as a mail carrier caused leg pain while doing his route. He indicated that he previously had surgery and was forced to retire. However, appellant did not identify a specific condition or diagnosis and fail to specifically identify which leg was allegedly injured or the type of surgery he had undergone. Moreover, he did not identify any specific employment duties that allegedly caused or contributed to his claimed leg injury. In

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<sup>5</sup> 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

<sup>6</sup> *Victor J. Woodhams, id.*

denying appellant's occupational disease claim, OWCP found that he failed to establish both a factual and medical basis for his claimed lower extremity condition.

As noted, OWCP requested additional information from appellant on November 24, 2015. However, it did not receive a factual statement from him within the 30-day allotted period. The record includes a city carrier position description, as well as a statement from Mr. Hurley, his supervisor, describing appellant's duties during the time he supervised appellant, but what was missing at the time was a detailed statement from appellant identifying particular employment factors that allegedly caused or contributed to his claimed leg condition.

In his November 12, 2015 report, Dr. Constantinides noted that appellant described a gradual onset of pain while walking normal routes. He diagnosed status post July 2007 total knee arthroplasty. However, Dr. Constantinides did not specify which knee was involved and he did not offer an opinion on whether appellant's current condition was employment related. The only other medical evidence submitted prior to the January 21, 2016 decision was a January 21, 2010 right knee x-ray, which noted a history of previous operation and findings that "could" represent postoperative periosteal new bone formation. Dr. Lemon indicated that previous trauma, surgery, and/or infection could account for the reported findings. He did not specify whether the findings were employment related.

Appellant failed to identify specific employment factors that he believed caused or contributed to his claimed leg condition. By itself, his explanation that he "was having leg pain while doing [his] route" will not suffice. Additionally, appellant failed to submit medical evidence establishing an employment-related diagnosis. The above-noted medical evidence does not establish that his total knee arthroplasty and right knee postoperative periosteal new bone formation are employment related. Accordingly, OWCP properly denied appellant's occupational disease claim.

#### **CONCLUSION**

Appellant failed to establish an injury to his lower extremity causally related to factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 21, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 7, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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