

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

---

**J.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Houston, TX, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 16-1284  
Issued: February 14, 2017**

*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  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On June 3, 2016 appellant filed a timely appeal from a May 16, 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 this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish a bilateral knee condition causally related to factors of her federal employment.

**FACTUAL HISTORY**

On October 9, 2015 appellant, then a 61-year-old retired customer services supervisor, filed an occupational disease claim (Form CA-2) alleging a bilateral knee condition due to

---

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

factors of her federal employment. She identified June 23, 2009 as the date she first became aware of her condition.

In a narrative statement, appellant specified that she had retired on October 1, 2015 and prior to her retirement she worked as a supervisor which required constant walking to the window unit, parcel area, and box section and sometimes in the automated areas. She indicated that she performed these duties at least eight hours per day, five days per week. Appellant alleged that her federal duties affected both of her knees, right worse than left, and noted that she never had a problem with her knees prior to working for the employing establishment and had no hobbies that would have caused or aggravated her conditions.

In a November 2, 2015 letter, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

By decision dated December 3, 2015, OWCP denied the claim as the medical evidence of record failed to establish a diagnosis in connection with the alleged injury and/or events.

On December 11, 2015 appellant requested a review of the written record by a representative of the Branch of Hearings and Review and submitted a November 19, 2015 narrative statement indicating that her job as a supervisor required constant walking in order to check areas of responsibilities and also required her to bend and stoop in the performance of duty.

In a September 15, 2015 report, Dr. Steven Inbody, a Board-certified neurologist, noted that appellant had been employed by the employing establishment as a supervisor for the past 35 years and on or about June 23, 2009 she first became aware of an aggravation of a preexisting injury of the right knee and sustained a new injury to the left knee while performing her repetitive duties of walking, standing, stooping, and bending. He reported that appellant eventually underwent right knee total replacement surgery and in 2006 a right knee meniscal tear was noted and treated arthroscopically with medial collateral ligament tear also noted and repaired. As appellant continued to work on her feet with significant walking required, her pain evolved and required knee injections. Dr. Inbody noted that appellant's pain continued to progress making activities at work difficult with end-of-the-day exacerbations to the point where she was unable to complete her activities of daily living at home with pain no longer responding to after-work rest. Appellant was scheduled for a total knee replacement on April 6, 2015 and had been going through gradual rehabilitation since. Dr. Inbody diagnosed bilateral internal derangement of the knees and opined that appellant's condition was a result of the repetitive traumas she experienced in her federal employment which required walking throughout the day with prolonged standing and very little time to sit.

On April 22, 2016 the employing establishment controverted appellant's claim alleging that she did not walk or stand for eight hours per day and used a yard stick to measure the mail which required no bending or stooping. It noted that appellant's job required two hours of intermittent walking and standing. The employing establishment submitted a position description and noted that appellant did not perform any physical exertion of lifting, pushing, pulling, bending, or stooping at work.

By decision dated May 16, 2016, an OWCP hearing representative affirmed the December 3, 2015 decision, finding that the medical evidence of record established fact of injury, but failed to establish a causal relationship between appellant's condition and factors of her federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof 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 period of FECA, and that an injury<sup>3</sup> was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (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.<sup>5</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.<sup>6</sup>

### **ANALYSIS**

The Board finds that appellant did not meet her burden of proof to establish that factors of her federal employment caused or aggravated her bilateral knee condition. Appellant identified the factors of employment that she believed caused the condition, including walking and standing while supervising areas at work, which OWCP accepted as factual. However, in order to establish a claim that she sustained an employment-related injury, she must also submit

---

<sup>2</sup> *Id.*

<sup>3</sup> OWCP regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

<sup>4</sup> *See O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>5</sup> *See D.R.*, Docket No. 09-1723 (issued May 20, 2010).

<sup>6</sup> *See O.W.*, *supra* note 4.

rationalized medical evidence which explains how her medical condition was caused or aggravated by the accepted employment factors.<sup>7</sup>

In his September 15, 2015 report, Dr. Inbody diagnosed bilateral internal derangement of the knees and opined that appellant's condition was a result of the repetitive traumas she experienced in her federal job which required walking throughout the day with prolonged standing and very little time to sit. He failed to provide a rationalized opinion explaining how factors of appellant's federal employment, her walking and prolonged standing at work, caused or aggravated her bilateral knee condition. Dr. Inbody failed to provide an opinion adequately addressing how appellant's history of knee issues, including a June 23, 2009 incident, caused or contributed to her bilateral internal knee derangement. The Board has held that medical opinions based on an incomplete history have diminished probative value.<sup>8</sup> Dr. Inbody noted that appellant's condition occurred while she was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how her physical activity at work actually caused or aggravated the diagnosed condition.<sup>9</sup> The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between appellant's condition and her employment factors.<sup>10</sup> Thus, the Board finds that Dr. Inbody's report is insufficiently rationalized to establish that appellant's condition was caused or aggravated by factors of her federal employment.

On appeal, appellant contends that there was an error of fact or law and argues that her claim should have been approved based on the medical evidence she submitted. For the reasons set forth above, the Board finds appellant's arguments are without merit. As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the accepted employment factors, she failed to meet her burden of proof to establish a claim.

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 did not meet her burden of proof to establish a bilateral knee condition causally related to factors of her federal employment.

---

<sup>7</sup> See *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

<sup>8</sup> See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value). See also *Douglas M. McQuaid*, 52 ECAB 382 (2001); *N.H.*, Docket No. 13-849 (issued July 17, 2013).

<sup>9</sup> See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

<sup>10</sup> See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 16, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 14, 2017  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board