

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

L.S., Appellant)	
)	
and)	Docket Nos. 17-1863;
)	17-1867; and 17-1868
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Huntsville, AL, Employer)	Issued: April 18, 2018
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

On September 1, 2017 appellant filed timely applications for review from an April 10, 2017 merit decision and two March 6, 2017 nonmerit decisions of the Office of Workers' Compensation Programs (OWCP). The appeals were assigned Docket Nos. 17-1863, 17-1867, and 17-1868.

On July 11, 2014 appellant, then a 60-year-old laborer/custodian, filed three individual occupational disease claims (Form CA-2) alleging that he developed bilateral hip and knee osteoarthritis, bilateral carpal tunnel syndrome, and bilateral rotator cuff tears due to his work duties. He noted that he first became aware of his bilateral hip and knee condition on March 3, 2005; he first became aware of his bilateral carpal tunnel syndrome on March 26, 1996; and he first became aware of his bilateral rotator cuff tears on December 22, 2005. Appellant attributed his claimed conditions to his employment duties which required his constantly lifting mop buckets and wringers while sweeping and mopping, pushing 700-pound metal equipment, as well as edging and using a weed trimmer. He indicated that his conditions worsened or were aggravated over time. The date of last exposure noted on all three claim forms was July 11, 2014.

OWCP developed appellant's three occupational disease claims separately. It assigned File No. xxxxxx370 to his claim for bilateral hip osteoarthritis and bilateral knee arthritis; File

No. xxxxxx376 to his claim for bilateral rotator cuff tears; and File No. xxxxxx369 to his claim for bilateral carpal tunnel syndrome.

In letters dated January 11, 2016, OWCP requested additional factual and medical evidence in support of each of appellant's claims. The letters noted that appellant had not provided any documentation beyond his claim forms and afforded him 30 days to submit evidence supporting his occupational disease claims. On the same date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor on the accuracy of appellant's statements and to provide a description of appellant's tasks. Neither appellant, nor the employing establishment responded.

By decision dated March 1, 2016, OWCP denied appellant's claim for bilateral hip and knee osteoarthritis in File No. xxxxxx370, noting that appellant failed to submit any evidence in support of his claim other than his claim form. In separate decisions of the same date OWCP also denied appellant's occupational disease claims for bilateral carpal tunnel syndrome under File No. xxxxxx369 and bilateral rotator cuff tears under File No. xxxxxx376.

On March 1, 2017, appellant requested reconsideration of each of the three March 1, 2016 decisions. In support of his requests for reconsideration he provided a report dated February 20, 2017 from Dr. William C. Gannaway, a Board-certified internist. Dr. Gannaway diagnosed cervical spondylosis with radiculopathy, lumbar spondylosis with radiculopathy, facet hypertrophy of the cervical and lumbar spines, osteoarthritis of the bilateral hips, knees, and shoulders, bilateral shoulder supraspinatus rotator cuff tear, and left knee medial meniscal tear. On physical examination he reported that appellant had moderate-to-severe pain, weakness, and loss of motion in both shoulders. Dr. Gannaway reported that appellant was restricted when raising his arms above his head or behind his back and found restricted range of motion. He noted that appellant had anterior flexion weakness in both shoulders as well as positive Neer tests bilaterally with pain on compression and palpation of both acromioclavicular joints. Dr. Gannaway reported that appellant had weakness on the empty can test to test for rotator cuff weakness. He also noted that appellant had pain and stiffness in both hips and knees due to degenerative arthritis. Appellant's left knee would occasionally lock-up or buckle, he had motion crepitation at both knee medical joint lines and kneecaps, and he had restriction mechanically and with pain to deep knee bends and kneeling. He reported pain in his hips and knees from standing or walking greater than 30 minutes and he had tenderness to the lateral hips and pain at night when he'd roll on the affected side.

Due to these medical problems, Dr. Gannaway determined that appellant could not perform his essential job duties of routine building maintenance and cleaning, as his job requires manual labor that requires him to be moderately fit and active. He noted that appellant's job required him to stand and walk for extended periods, which caused escalating pain, stiffness, and weakness in his lower back, hips, and knees. As a result, Dr. Gannaway found that appellant was unable to continue work without rest periods every 30 minutes. He further found that appellant was unable to operate most of the power-driven cleaning equipment due to strain on his neck and shoulders. Dr. Gannaway opined that the vibration of waxers, floor scrubbers, and washers had exacerbated his arthritis in his neck and shoulders and caused tingling and numbness in his hands and arms. He provided work restrictions and recommended that appellant retire.

By decisions dated March 6, 2017, OWCP denied appellant's requests for reconsideration of the merits of his claim, with regard to appellant's claims for bilateral rotator cuff tears and bilateral carpal tunnel syndrome in File Nos. xxxxxx376 and xxxxxx369, finding that Dr. Gannaway's report was irrelevant.

By decision dated April 10, 2017, OWCP reviewed the merits of appellant's claim for bilateral hip and knee osteoarthritis in File No. xxxxxx370, but denied modification of its prior decision. It found that Dr. Gannaway did not offer an opinion on causal relationship between appellant's alleged conditions of bilateral hip osteoarthritis and bilateral knee arthritis and employment duties. OWCP further noted that appellant had not provided a detailed history of his employment duties to which he attributed his lower extremity conditions.

The Board has duly considered the matter and finds that the case is not in posture for decision. OWCP's procedures provide that cases should be combined where correct adjudication depends on cross-referencing between files and where two or more injuries (not recurrences) have occurred on the same date.¹

Appellant filed three occupational disease claims on July 11, 2014 alleging that his federal employment duties resulted in injuries to different parts of his body. As the claims developed individually with OWCP, inconsistent results occurred in the claim development and adjudication process. For a full and fair adjudication, the claims in File No. xxxxxx369 and xxxxxx376 should be combined with File No. xxxxxx370, pursuant to OWCP procedures.² This will allow OWCP to consider all relevant claim files in developing this claim. Moreover, to consider appellant's appeal in piecemeal fashion, as presented to the Board, could result in further inconsistent results. It is the Board's policy to avoid such an outcome.³

The case will be remanded to OWCP to combine the case records for File Nos. xxxxxx369, xxxxxx370, and case xxxxxx376. Following this and such other development as deemed necessary, OWCP shall issue a *de novo* merit decision on appellant's claim.

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c)(2) (February 2000).

³ See *William T. McCracken*, 33 ECAB 1197 (1982).

IT IS HEREBY ORDERED THAT the August 10, 2017 decision of the Office of Workers' Compensation Programs under File No. xxxxxx370, and the March 6, 2017 decisions of the Office of Workers' Compensation Programs under File Nos. xxxxxx376 and xxxxxx369 are set aside, and the cases are remanded to OWCP for further proceedings consistent with this order.

Issued: April 18, 2018
Washington, DC

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

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

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