

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish osteoarthritis of the right hip and knee causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On January 31, 2020 appellant, then a 59-year-old carrier technician, filed an occupational disease claim (Form CA-2) alleging that he developed osteoarthritis of the right hip and knee due to factors of his federal employment, including working mandatory overtime for the first two years of his employment, which resulted in his working 10 hours per day for six days a week, as well as excessive walking, and heavy lifting. He estimated that, during his regular work hours, he walked approximately eight miles and up 30 floors while carrying approximately 35 pounds. Appellant stopped work on December 3, 2019 and returned to work on December 11, 2019.

In support of his claim, appellant submitted a December 2, 2019 x-ray scan of appellant's right hip, read by Dr. Wonsuk Kim, a Board-certified diagnostic radiologist, which revealed mild degenerative changes without acute osseous abnormality. A December 5, 2019 x-ray scan of appellant's right knee, read by Dr. Brian Ellison, a Board-certified radiologist, revealed mild degenerative changes with no acute fracture or dislocation.

Dr. Jayson Carr, a Board-certified internist, noted in a January 24, 2020 letter that appellant had worked in his position since 2016 and that on December 2, 2019 he presented with right knee and hip pain. On examination and review of x-ray scans of his right hip and knee Dr. Carr observed degenerative changes and diagnosed osteoarthritis. He detailed appellant's subsequent treatment and opined that his osteoarthritis is exacerbated by his work duties involving carrying a satchel weighing 35 pounds for approximately eight miles and climbing 30 floors over a six and a half hour time frame.

In a January 30, 2020 statement, appellant asserted that he had been working in his position since 2016 and in a typical day he spent an hour and a half in the office casing mail before he went out on his delivery route. While delivering mail, he carried a satchel weighing approximately 35 pounds and would spend six and a half hours walking around eight miles per day and walking up 30 floors of stairs on a regular day. Appellant also noted that from 2016 to 2018 he was forced to work overtime, which required him to work 10 hours per day, work on Sundays and to deliver packages on holidays.

In a development letter dated February 4, 2020, OWCP advised appellant of the factual and medical deficiencies of his claim. It asked him to complete a questionnaire to provide further details regarding the circumstances of his claimed injury and requested a narrative medical report from his treating physician, which contained a detailed description of findings and diagnoses, explaining how his work activities caused, contributed to, or aggravated his medical condition. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

On February 13, 2020 Dr. John-Paul Hezel, Board-certified in physical medicine and rehabilitation, evaluated appellant for right hip and bilateral knee pain. He observed that x-ray scans of appellant's right hip and knees and confirmed the presence of primary hip osteoarthritis and primary osteoarthritis of the bilateral knees. Appellant informed him that his symptoms of pain worsened with walking, especially at work. Dr. Hezel reviewed his employment duties consisting of carrying a satchel and walking eight hours per day and recommended that he not walk for work, if possible, as this would further exacerbate his condition.

In response to OWCP's questionnaire, on February 19, 2020 appellant attached a copy of his January 30, 2020 statement wherein he described his employment duties. He included a handwritten note wherein he indicated that his activities outside of work consisted of listening to music and using the computer.

In a February 22, 2020 letter, the employing establishment controverted appellant's claim, reasoning that appellant was aware of the requirements to work up to six days per week for 10 hours a day, including Sundays and holidays from the outset of his employment. It agreed that he was tasked with carrying a satchel weighing up to 35 pounds. The employing establishment indicated that carriers were often instructed to take multiple breaks as needed and that appellant never expressed an issue or requested an accommodation prior to filing his claim. It also attached a position description of his duties as a city carrier assistant.

By decision dated March 17, 2020, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that his osteoarthritis of the right hip and knee were causally related to the accepted factors of his federal employment.

On March 24, 2020 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a June 17, 2020 medical report, Dr. Hezel reviewed his treatment for appellant's mild right hip osteoarthritis and right knee osteoarthritis, including an intra-articular corticosteroid injection to the hip. On examination and review of his x-ray scans he diagnosed mild right hip osteoarthritis and mild right knee osteoarthritis. Dr. Hezel indicated that appellant had not been working due to the pain in his right lower extremity and recommended that he seek a different position that would possibly allow him to work at a desk or as a clerk.

In a June 29, 2020 medical information and restriction assessment form, Dr. Carr diagnosed osteoarthritis and recommended that appellant limit the amount of walking, carrying, and prolonged standing that he performed.

A telephonic hearing was held on July 8, 2020. Appellant again described his employment duties dating back to 2016 that he believed were the cause of his conditions. OWCP's hearing representative informed him of the medical evidence necessary to establish his claim and allowed an additional 30 days to submit evidence. No response was received.

By decision dated September 9, 2020, the hearing representative affirmed OWCP's March 17, 2020 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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,³ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant 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 identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁸ 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 factor(s).⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish osteoarthritis of the right hip and knee causally related to the accepted factors of his federal employment.

In his February 13, 2020 letter, Dr. Hezel observed x-ray scans of appellant's right hip and both knees and reviewed his employment duties which consisted of carrying a satchel and walking

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also* *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

⁹ *Id.*; *Victor J. Woodhams*, *supra* note 6.

eight hours per day. He diagnosed right hip osteoarthritis and primary osteoarthritis of the knees and recommended that appellant not walk at work as it would further exacerbate his condition. While he provided an affirmative opinion suggestive of causal relationship, Dr. Hezel did not offer medical rationale sufficient to explain why he believes appellant's employment duties could have resulted in or contributed to his diagnosed conditions. Without explaining how carrying a satchel and walking eight hours per day caused or aggravated appellant's osteoarthritis, Dr. Hezel's letter is of limited probative value.¹⁰

In a June 17, 2020 medical report, Dr. Hezel reviewed appellant's treatment for symptoms related to mild right hip and right knee osteoarthritis. However, he did not offer an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹¹ For this reason, Dr. Hezel's remaining medical evidence is also insufficient to meet appellant's burden of proof.

On January 24, 2020 Dr. Carr reviewed appellant's history of symptoms of right knee and right hip pain and his employment duties dating back to 2016. On examination and review of x-ray scans of appellant's right hip and knee, he diagnosed right hip and right knee osteoarthritis and opined that appellant's condition was exacerbated by his work duties. As stated above, without sufficient rationale explaining how appellant's employment duties caused or aggravated his osteoarthritis, Dr. Carr's January 24, 2020 opinion is insufficient to establish appellant's claim.¹²

In a June 29, 2020 form report, Dr. Carr diagnosed osteoarthritis and recommended that appellant limit the amount of walking, carrying, and prolonged standing that he performed. As also previously noted, medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹³ For this reason, Dr. Carr's June 29, 2020 form report is insufficient to meet appellant's burden of proof.

The remaining medical evidence consisted of December 2 and 5, 2019 of x-ray scans of appellant's right hip and right knee, respectively. The Board has held, however, that diagnostic testing reports, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment factors and a diagnosed condition.¹⁴ For this reason, this evidence is also insufficient to meet appellant's burden of proof.

As appellant has not submitted rationalized medical evidence establishing that his right hip and knee osteoarthritis is causally related to the accepted factors of his federal employment, the Board finds that he has not met his burden of proof to establish his claim.

¹⁰ See *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹¹ *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *Supra* note 10.

¹³ *Supra* note 11.

¹⁴ *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

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 osteoarthritis of the right hip and knee causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the September 9, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 7, 2021
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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