United States Department of Labor
Employees' Compensation Appeals Board

E.T., Appellant	)	
and	)	**Docket No. 24-0128**
	)	**Issued: March 20, 2024**
U.S. POSTAL SERVICE, FEDERAL WAY POST OFFICE, Federal Way, WA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On November 27, 2023 appellant filed a timely appeal from a September 28, 2023 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 a left knee condition causally related to the accepted factors of his federal employment.

[1] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

This case has previously been before the Board.[2] The facts and circumstances as set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On August 1, 2022 appellant, then a 55-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he had a torn meniscus in his left knee in the same location as a previous 2018 injury due to factors of his federal employment, including walking 13 miles, climbing 56 flights of steps, standing, bending, sorting mail, and lifting trays of mail and parcels weighing up to 70 pounds each day. He noted that he first became aware of his claimed condition and realized its relation to his federal employment on July 23, 2022.[3]

In a note dated July 24, 2022, Dr. Vivian S. Lee, a family medicine specialist, noted that appellant had been seen and treated on that date. She indicated that appellant could return to work on July 29, 2022.

In an attending physician's report (Form CA-20) dated July 29, 2022, Dr. Benjamin Chia, a Board-certified orthopedic surgeon, diagnosed a left knee meniscus injury. He checked a box indicating his belief that appellant's left knee condition was an aggravation of a previous left knee injury. Dr. Chia noted that appellant was unable to return to full duty.

In a narrative report dated July 29, 2022, Dr. Chia reviewed appellant's medical history and noted that appellant was currently not working due to left knee pain, and that he presented to him regarding a previous claim from 2018. He stated that a magnetic resonance imaging (MRI) scan from January 11, 2019 demonstrated a left knee meniscus injury and noted that appellant's pain had progressively worsened. On physical examination, Dr. Chia observed minimal swelling, range of motion within normal limits, a positive McMurray's test, and tenderness over the medical joint line. He diagnosed a left knee sprain/meniscus tear with aggravation due to occupational exposure, relative to a previous work-related injury, on a probable basis. Dr. Chia noted that appellant's job required significant walking and stated that there was clinical evidence of aggravation from a preexisting injury or meniscus tear.

By development letter dated August 4, 2022, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It noted the type of factual and medical evidence necessary to establish the claim. Appellant was afforded 30 days to submit the necessary evidence.

By decision dated September 9, 2022, OWCP denied the claim, finding that causal relationship had not been established.

[2] *Order Remanding Case*, Docket No. 23-0464 (issued September 22, 2023).

[3] Appellant had previously filed a traumatic injury claim (Form CA-1) for an August 14, 2018 injury, which OWCP accepted for sprain of unspecified site of left knee. OWCP assigned that claim, OWCP File No. xxxxxx107. Appellant also had previously filed a Form CA-1 for an injury sustained on April 12, 2022 for a dog bite on the backside of his left leg under OWCP File No. xxxxxx023.

OWCP subsequently received an August 4, 2022 report, wherein Dr. Philip Henning, a sports medicine specialist, recommended that appellant be permanently limited to an eight-hour shift due to his recurring knee injury.

On December 1, 2022 appellant requested reconsideration.

By decision dated December 6, 2022, OWCP denied modification of its September 9, 2022 decision.

OWCP thereafter received a note dated December 6, 2022, wherein Dr. David Spiro, a family medicine specialist, opined that there was causal relationship between appellant's duties of walking 13 miles per shift, climbing 56 flights of stairs, and entering and exiting his truck, and appellant's left knee condition.

On January 1, 2023 appellant again requested reconsideration.

By decision dated January 6, 2023, OWCP denied modification of its December 6, 2022 decision.

Appellant filed a timely appeal to the Board on February 15, 2023.

By order dated September 22, 2023, the Board set aside OWCP's January 6, 2023 decision and remanded the case for OWCP to administratively combine the present claim with OWCP File Nos. xxxxxx107 and xxxxxx023, to be followed by a *de novo* decision.

By decision dated September 28, 2023, OWCP accepted that the alleged factors occurred, that a medical condition was diagnosed, and that appellant was within the performance of duty. However, it denied the claim as he had not submitted sufficient medical evidence to establish causal relationship between his claimed condition and the implicated employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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 of FECA, 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.[5] 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.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant 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;

[4] *Id*.

[5] *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

(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] 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.[8]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left knee condition causally related to the accepted factors of his federal employment.

On July 29, 2022 Dr. Chia reviewed appellant's medical history and conducted a physical examination. He noted that appellant was currently not working due to left knee pain, and that he presented to Dr. Chia to reopen a previous claim from 2018. Dr. Chia diagnosed a left knee sprain/meniscus tear with aggravation due to occupational exposure, relative to a previous work-related injury, on a probable basis. He noted that appellant's job required a lot of walking and stated that there was clinical evidence of aggravation from a preexisting injury or meniscus tear. However, Dr. Chia did not provide a rationalized medical opinion explaining how the accepted factors of appellant's federal employment physiologically caused the current condition. The Board has held that a medical opinion that does not offer a medically sound and rationalized explanation by the physician of how the accepted employment incident or factors physiologically caused or aggravated the diagnosed conditions is of limited probative value.[9] Dr. Chia also did not provide medical rationale differentiating appellant's preexisting conditions from the current condition. The Board has explained that such rationale is especially important in a case involving a preexisting condition.[10] As such, Dr. Chia's report is insufficient to establish appellant's claim.

On July 29, 2022 Dr. Chia diagnosed a left knee meniscus injury. He checked a box indicating his belief that appellant's left knee condition was an aggravation of a previous left knee injury. The Board has held, however, that when a physician's opinion on causal relationship

[6] *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[7] *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[8] *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

[9] *J.B.,* Docket No. 21-0011 (issued April 20, 2021); *A.M.,* Docket No. 19-1394 (issued February 23, 2021).

[10] *Id*.

consists only of a checkmark on a form, without further explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.[11]

Appellant also submitted a note dated December 6, 2022 from Dr. Spiro, who opined that there was a causal relationship between appellant's duties of walking 13 miles per shift, climbing 56 flights of stairs, and entering and exiting his truck, and appellant's left knee condition. However, Dr. Spiro's opinion was conclusory, as he did not provide medical rationale explaining how appellant's work duties caused or contributed to his claimed condition. This evidence is, therefore, of limited probative value and insufficient to establish the claim.[12]

On July 24, 2022 Dr. Lee noted that appellant had been seen and treated on that date and could return to work on July 29, 2022. On August 4, 2022 Dr. Henning recommended that appellant be permanently limited to an eight-hour shift due to his recurring knee injury. This evidence, however, did not contain an opinion as to the cause of appellant's diagnosed conditions. 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]

As appellant has not submitted rationalized medical evidence to establish that aggravation of his diagnosed left knee condition was causally related to factors of his federal employment, the Board finds that he has not met his burden of proof.

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 a left knee condition causally related to the accepted factors of his federal employment.

[11] *O.M.*, Docket No. 18-1055 (issued April 15, 2020); *Gary J. Watling*, 52 ECAB 278 (2001).

[12] *See T.F.*, Docket No. 20-0260 (issued June 12, 2020); *D.J.*, Docket No. 18-0694 (issued March 16, 2020); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *K.O.*, Docket No. 18-1422 (issued March 19, 2019).

[13] *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

ORDER

IT IS HEREBY ORDERED THAT the September 28, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 20, 2024
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board