

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KATHY M. GREEN-ROBINSON and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, Pa.

*Docket No. 97-542; Submitted on the Record;
Issued November 5, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained a bilateral knee condition in the performance of duty.

On February 1, 1996 appellant, a 47-year old letter carrier, filed a notice of occupational disease (Form CA-2) for a bilateral knee condition which she attributed to climbing steps in the performance of her duties. Appellant stated that she first realized this condition on January 5, 1996 when "the pain in my knees were so bad that I could hardly walk up the steps or come back down the steps." On the reverse side of the CA-2 form, appellant's supervisor stated that appellant was on sick leave from January 6, 1998 through January 11, 1996 due to knee problems. The employing establishment indicated that appellant first reported her knee condition to her supervisor on January 12, 1996, and that she has been on limited-duty work since January 30, 1996.

Appellant submitted several handwritten notes from Dr. Bruce Williams, an osteopath, in support of her claim. On January 11, 1996 he stated that the claimant was not able to work due to bilateral knee pain since January 5, 1996. On January 29, 1996 Dr. Williams further stated that appellant was not allowed to walk or carry mail for at least six weeks, and that she was being referred to an orthopedic surgeon.

In a note dated January 31, 1996, Dr. Dennis B. Zaslow, an osteopath specializing in orthopedic surgery, recommended that appellant perform only "light duty -- not to stand more than two hours at a time -- no climbing."

On February 15, 1996 the Office of Workers' Compensation Programs requested that appellant submit additional information concerning her job duties and medical opinion evidence relevant to the cause of her knee condition.

Appellant subsequently submitted a handwritten statement in which she described the physical requirements of her job. She stated that after walking up and down steps for a prolonged period of time her knees would start to hurt. Appellant stated that she regularly carried about 35 pounds of mail in her bag, and that she was required to stoop and lift trays of mail.

By decision dated April 18, 1996, the Office advised that the evidence “fails to establish that the claimed medical condition or disability is causally related to the injury.”¹

On May 17, 1996 the Office informed appellant that it could not consider her claim for recurrence of disability as her claim had been denied.

By letter dated May 17, 1996, appellant filed for reconsideration.

In support of her reconsideration request, appellant submitted a report from Dr. Zaslow. In a February 5, 1996 report, he noted that appellant was a letter carrier who had pain in the knees when going up and down steps. Dr. Zaslow further noted that appellant’s job required her to go up and down steps all day long, and that she reported having knee problems while she was working. He noted that appellant’s knees were swollen during his examination. The doctor interpreted x-rays of appellants knees taken on January 11, 1996 as showing (1) bilateral , degenerative changes, (2) large, superior, anterior, patellar spurs, and (3) mild, tibial spine spurring, bilateral. Dr. Zaslow diagnosed “synovitis of both knees and chondromalacia of the patella on the right and left.” Subsequent reports from him noted appellant’s status but did not specifically address the cause of her knee conditions.

A magnetic resonance imaging (MRI) scan examination report of the right knee dated March 14, 1996 revealed no osseous abnormality and no evidence of acute bone injury. The impression was small joint effusion.

An MRI examination report of the left knee dated March 15, 1996 revealed no acute bone injury nor joint effusion. The impression was a horizontal tear involving the body of the lateral meniscus extending to its inferior articular surface, a five millimeter Baker’s cyst, and mild chondromalacia patella.

A disability certificate signed by Dr. Zaslow on March 25, 1996 advised that appellant was totally incapacitated due to derangement of both knees.²

In a report dated May 2, 1996, Dr. Williams stated that he first saw appellant in January 1996 for evaluation and treatment of injuries sustained in January 1995. According to him,

¹ On April 17, 1996, appellant filed a notice of recurrence of disability and claim for continuation of pay/compensation (Form CA-2a). On the reverse side of the CA-2a form, the employing establishment stated that appellant was reassigned on February 1, 1996 and no longer performed her carrier duties. Appellant stopped working on March 25, 1996. On May 17, 1996 the Office informed appellant that it could not consider her claim for a recurrence of disability as her claim had been denied.

² In a report dated March 27, 1996, Dr. Zaslow advised that appellant should not be working due to hypertension, diabetes, and the pain in her knees. He recommended that appellant stay off her feet as much as possible.

appellant first began experiencing pain in her knees one year earlier in January 1995, that she ignored it, but that the pain became progressively worse. Dr. Williams also noted that the heavier appellant's mail became to carry at work, the worse the pain became for her to walk and climb stairs. He specifically noted that appellant's past medical history was noncontributory. The diagnosis was "synovitis of both knees and chondromalacia of the patella of the right and left knee." Dr. Williams noted that the "patient feels, and I am in no position to contradict her, that she sustained these injuries due to her work-related activities. I cannot confirm, nor deny these allegations. The patient, as you know, does lift heavy mail from time to time and the nature of her occupation does require a great deal of walking and the climbing of stairs."³

On August 14, 1996 the Office issued a compensation decision denying modification after conducting a merit review. The Office found that appellant failed to submit sufficient medical evidence to establish that her knee condition's were causally related to federal employment.⁴

The Board finds that appellant failed to carry her burden in establishing that she sustained a bilateral knee condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act⁵ has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁶ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of a 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 employment factors identified by the claimant were the proximate cause of the condition for

³ In an April 15, 1996 report, Dr. Williams addressed the cause of appellant's condition with the exact same language.

⁴ At one point in the decision, the Office indicated that fact of injury was accepted. However, this appears to have been a misstatement as the context of the decision and other evidence of record indicates that the Office never accepted that appellant sustained an injury in the performance of duty.

⁵ 5 U.S.C. §§ 8101-8193.

⁶ *Joe D Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton* 40 ECAB 1143 (1989).

⁷ *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

which compensation is claimed, or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁸

The medical evidence required to establish causation, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 claimant.⁹

In the instant case, the Office found that appellant did not provide rationalized medical evidence that her back condition was caused by factors of her employment. In support of her claim, appellant submitted medical reports from Drs. Williams and Zaslow. However, Dr. Zaslow's reports make no reference as to whether appellant's back condition is causally related to the factors of her employment. Dr. Zaslow notes the history of injury provided by appellant but he did not provide his own opinion, supported by medical reasoning, regarding whether appellant's employment caused or aggravated her knee conditions. Although Dr. William's April 15, 1996 and May 2, 1996 reports do consider causation, he specifically stated that he was unable to substantiate or deny appellant's contention that she sustained her injuries due to work-related activities. Dr. William's opinion is therefore equivocal and insufficient to meet appellant's burden of proof.¹⁰ Dr. Williams has not provided a firm opinion, supported by medical rationale, regarding whether specific work factors caused or aggravated appellant's conditions.

Neither the fact that appellant's knee conditions became apparent during a period of employment, nor the belief of appellant that her conditions were caused or aggravated by employment conditions, is sufficient to establish causal relationship.¹¹ Thus, as appellant has not submitted sufficient medical evidence regarding the cause of her bilateral knee conditions, the Office properly denied her claim for compensation.

⁸ *Woodhams, supra* note 7.

⁹ *Id.*

¹⁰ The Board has often held that an opinion which is speculative in nature has limited probative value in determining the issue of causal relationship. *Arthur Vilet*, 31 ECAB 366 (1979).

¹¹ *Woodhams, supra* note 7.

The decisions of the Office of Workers' Compensation Programs dated August 14 and April 18, 1996 are affirmed.

Dated, Washington, D.C.
November 5, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member