

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEANNE M. MARSH and U.S. POSTAL SERVICE,
POST OFFICE, Pittsburgh, PA

*Docket No. 99-233; Submitted on the Record;
Issued April 13, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant has established that the condition of her right knee on and after June 23, 1997 is causally related to her May 27, 1995 employment injury.

The Office of Workers' Compensation Programs accepted that appellant sustained a right knee sprain on May 27, 1995 when she twisted her knee while stepping out of a truck. Appellant stopped work on May 30, 1995 to undergo medical treatment, then returned to work performing limited duty.

On December 1, 1997 appellant filed a claim for a recurrence of disability due to her May 27, 1995 employment injury. Appellant listed the date of the recurrence as June 23, 1997. She did not stop work, but was assigned limited duty on June 9, 1997 with no excessive standing. In a report dated June 23, 1997, Dr. E. William Kennen, Jr., an osteopath, diagnosed chondromalacia and polyneuropathy, and indicated appellant could perform limited work with no climbing of stairs or hills.

By letter dated February 24, 1998, the Office advised appellant that it needed further evidence regarding her claim for a recurrence of disability, including a medical report with a "physician's opinion, with supporting explanation, as to the causal relationship between your current disability/condition and the original injury." Appellant submitted a report dated March 10, 1998 from Dr. Thomas J. Larson, an orthopedic surgeon, who noted that appellant had "bilateral knee pain, left generally worse than right. It is aggravated with walking." Dr. Larson stated that his examination revealed, for both knees, full range of motion, mild tenderness along the medial joint lines and good ligamentous stability. Dr. Larson recommended that appellant "continue with her current work restrictions."

By decision dated April 7, 1998, the Office found that the medical evidence was not sufficient to establish that appellant's current condition was caused by her May 27, 1995 employment injury.

The Board finds that appellant has not established that the condition of her right knee on and after June 23, 1997 is causally related to her May 27, 1995 employment injury.

Although appellant filed a claim form for a recurrence of disability beginning June 23, 1997 due to her May 27, 1995 employment injury, she did not stop work on June 23, 1997 or at any subsequent date up to the time of the Office's decision. Appellant's claim thus is in actuality that her condition on and after June 23, 1997, and the concomitant medical treatment and restriction to limited duty, are causally related to her May 27, 1995 employment injury. Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent condition for which she claims compensation is causally related to the accepted injury. This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.¹ Appellant has not provided such evidence. None of the medical reports that are dated on or after June 23, 1997 indicate that her condition on or after that date is causally related to her May 27, 1995 employment injury. Appellant has not met her burden of proof.

The decision of the Office of Workers' Compensation Programs dated April 7, 1998 is affirmed.

Dated, Washington, D.C.
April 13, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

¹ *Frances B. Evans*, 32 ECAB 60 (1980).