

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONALD JOHNSON and DEPARTMENT OF THE AIR FORCE,
MINOT AIR FORCE BASE, ND

*Docket No. 98-1841; Submitted on the Record;
Issued February 10, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs properly determined that appellant's employment injury had resolved; and (2) whether appellant has established any additional employment-related conditions.

In the present case, appellant filed a traumatic injury claim (Form CA-1) alleging that he sustained injuries when he slipped and fell on ice in the performance of duty on March 4, 1996. The reverse of the claim form indicates that appellant did not stop working. By decision dated March 4, 1997, the Office determined that appellant had not established fact of injury.

In a decision dated March 10, 1998, the Office vacated the prior decision and found that appellant had established a right knee abrasion, which had resolved.

The Board has reviewed the record and finds that the Office properly determined that a right knee abrasion had resolved.

In order to terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition, which require further medical treatment.¹

In this case, the Office referred appellant, along with medical records and a statement of accepted facts, to Dr. Jack Bert, an orthopedic surgeon. In a report dated February 18, 1998, Dr. Bert provided a history of injury and results on examination. He diagnosed early mild medial gonarthrosis of the right knee, with probable degenerative medial meniscal posterior horn tear. Dr. Bert opined, "The work injury of March 4, 1996, would have been simply an abrasion of the knee as diagnosed by the original evaluating physician, as well as soft tissue contusion of

¹ *Furman G. Peake*, 41 ECAB 361 (1990).

the right knee.” He also opined that appellant “does not have any residuals from the March 4, 1996 work injury,” noting that appellant did have a preexisting right knee arthritic condition.

With respect to the right knee abrasion, Dr. Bert provided an opinion that the condition had resolved and there was no other probative medical evidence of record with respect to a continuing right knee abrasion. The Board finds that the Office met its burden of proof in determining that the accepted condition had resolved.

The Board further finds that the record establishes a right knee soft tissue contusion as employment related, but the evidence is not sufficient to establish any additional employment-related conditions.

An employee has the burden of establishing the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.²

As noted above, the second opinion physician, Dr. Bert, opined that appellant also sustained a soft tissue contusion to the right knee as a result of the March 4, 1996 employment incident. Dr. Bert based his opinion on a complete factual and medical background. Accordingly, the Board finds that the Office should accept a soft tissue contusion of the right knee as employment related. Dr. Bert found that this condition had resolved and there is no contrary medical evidence of record.

With respect to any additional employment-related conditions, the Board finds that the record is not sufficient to meet appellant’s burden of proof. Dr. Bert found that appellant had sustained an abrasion and contusion to the right knee, which had resolved at the time of his examination. Appellant’s attending physicians have not provided a reasoned opinion as to causal relationship between any other diagnosed conditions and the employment injury. For example, in a report dated May 29, 1997, Dr. John D. Osland, an orthopedic surgeon, reported that in March 1996 appellant “fell at work and aggravated his knee problems more.” Dr. Osland indicated that appellant continued to have knee problems consistent with degenerative changes, but he did not clearly explain the nature and extent of any aggravation caused by the employment injury. In a report dated September 12, 1997, Dr. Osland stated that appellant “does have degenerative problems to his right knee that we felt has been aggravated by his work and feel that it is somewhat work related.” Again, Dr. Osland did not provide additional detail or a reasoned opinion that establishes an aggravation of a preexisting right knee condition causally related to the employment injury. In the absence of a reasoned medical opinion, based on a complete background, the Board finds that appellant has not established an aggravation of a preexisting right knee condition.

The Board notes that Dr. Osland recommended a right knee arthroscopic surgery. He did not, however, provide a reasoned opinion on causal relationship between the proposed surgery and the employment injury. Dr. Bert, the second opinion physician, had opined that any need for

² *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

surgery was not related to the employment injury. There is no probative evidence of record establishing a right knee surgery as causally related to the March 4, 1996 employment injury.

It is noted that appellant submitted treatment notes from Dr. Rajnikant Mehta, a general practitioner, who noted on April 25, 1996 that appellant complained of a right elbow injury during a fall at work approximately a month earlier and on June 6, 1996 noted complaints of low back pain. To the extent that appellant is claiming a right elbow or back injury as causally related to the March 4, 1996 incident, Dr. Mehta does not provide an affirmative opinion on this issue.

Accordingly, the Board finds that the probative medical evidence establishes a right knee abrasion and soft tissue contusion as causally related to the March 4, 1996 employment incident, both of which had resolved by February 18, 1998, the date of examination by Dr. Bert. Appellant has not submitted sufficient medical evidence to establish any additional injuries or need for continuing medical treatment.³

The decision of the Office of Workers' Compensation Programs dated March 10, 1998 is modified to reflect acceptance of soft tissue contusion of the right knee, resolved by February 18, 1998 and affirmed as modified.

Dated, Washington, D.C.
February 10, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

³ As to any employment-related disability from the accepted injuries, the March 10, 1998 Office decision indicated that appellant may claim disability through submission of the appropriate forms.