

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROY GRINNON and U.S. POSTAL SERVICE,
POST OFFICE, Riveria Beach, FL

*Docket No. 01-1097; Submitted on the Record;
Issued February 12, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an injury in the performance of duty.

The Board has duly reviewed the case record and finds that this case is not in posture for decision.

On March 8, 2000 appellant, then a 46-year-old letter carrier, filed a traumatic injury claim assigned number 06-2003778 alleging that on that date he experienced pain in his knees, and that both knees popped and buckled causing him to fall upon a hamper catching his fall while walking back to the Zone 7 "nixies" table. Appellant also alleged that he experienced lower back pain due to this incident.

By decision dated May 19, 2000, the Office of Workers' Compensation Programs found the evidence of record insufficient to establish that appellant sustained an injury in the performance of duty. In a June 15, 2000 letter, appellant requested an oral hearing before an Office representative.

In a December 22, 2000 decision, the hearing representative found that appellant failed to submit any medical evidence establishing a diagnosis for a condition he sustained due to the March 8, 2000 employment incident. Accordingly, the hearing representative affirmed the Office's decision.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 limitations period of the Act, that an injury was

¹ 5 U.S.C. §§ 8101-8193.

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.² 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.³

In this case, appellant submitted a March 13, 2000 report of Dr. Mukesh D. Bhatt, a Board-certified physiatrist, revealing a description of the March 8, 2000 employment incident, and a diagnosis of aggravation of lumbar radiculopathy with muscle spasms and bilateral knee instability.

In response to the Office's April 4, 2000 letter requesting that he submit additional evidence supportive of his claim, appellant submitted a letter dated April 17, 2000. Appellant stated that he received medical treatment on March 8, 2000, the date of his alleged injury and provided a description of the employment incident. Appellant stated "I have had severe problems with my knees as a result of an on[-]the[-]job[-]injury. ... I have been having problems with my knees since April 3, 1998." Appellant also stated that he had been receiving treatment on a continuous basis at least once a month and more frequently when required.

An undated report of Dr. Bhatt revealed that he had been treating appellant since 1998 for problems with his low back and knees related to an on-the-job injury. Dr. Bhatt indicated that he saw appellant on March 13, 2000 regarding a flare-up of his back and knee pain after he nearly fell when his knees buckled while he was working. Dr. Bhatt stated that appellant indicated his pain had increased. He opined:

"I think the history [appellant] gave and my knowledge of his previous condition is most consistent with the fact that the incident of March 8, 2000 aggravated his lumbar radiculopathy and caused some symptomatology. In addition, I think his bilateral knee instability was aggravated and made worse as a direct result of this incident on March 8, 2000."

Dr. Bhatt, however, failed to provide any medical rationale to support his opinion regarding the causal relationship between appellant's current back and knee conditions, and the March 8, 2000 employment incident.

The Board finds that contrary to the Office's finding, Dr. Bhatt provided a diagnosis for appellant's current back and knee conditions. Further, appellant's allegation that he had ongoing problems with his employment-related back and knee conditions, and Dr. Bhatt's uncontroverted opinion that the March 8, 2000 employment incident aggravated these employment-related conditions, although it lacks sufficient rationale, are sufficient to require further development of the record by the Office.⁴

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718 (1991).

⁴ *Rebel L. Cantrell*, 44 ECAB 660 (1993); *John J. Carlone*, 41 ECAB 354 (1989).

On remand the Office should double this case file assigned number 06-2003778 with any other injury claims appellant has filed for the same parts of the body, including case file assigned number 06-700173.⁵ The Office should also prepare a statement of accepted facts and refer it along with appellant and his medical records for a second opinion examination to obtain a rationalized opinion as to whether factors of appellant's federal employment aggravated his preexisting employment-related knee and back conditions, appellant's current diagnosed condition, and whether the diagnosed condition is causally related to factors of appellant's federal employment. Following such further development as may be necessary, the Office shall issue an appropriate final decision on appellant's claim.

The December 22 and May 19, 2000 decisions of the Office of Workers' Compensation Programs are hereby set aside, and the case is remanded for further development consistent with this decision.

Dated, Washington, DC
February 12, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ FECA Bulletin No. 97-10 (issued February 15, 1997) provides that cases should be doubled when a new injury case is reported for an employee who has filed a previous injury claim for the same part of the body.