

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID V. JAMISON and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 03-981; Submitted on the Record;
Issued July 9, 2003*

DECISION and ORDER

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

The issue is whether appellant sustained an injury in the performance of duty on September 7, 2001.

On January 10, 2002 appellant, then a 54-year-old naval architect, filed a traumatic injury claim alleging that on September 7, 2001 he sustained injuries to his low back and right knee while he was unloading computer equipment at the employing establishment's loading dock.

Appellant submitted January 9, 2002 treatment records from the employing establishment's medical clinic, which indicated a diagnosis of right medial meniscal tear. The date of injury was reported as September 7, 2001; however, the treatment records did not identify the cause of injury.

By letter dated January 22, 2002, the Office of Workers' Compensation Programs advised appellant that he needed to submit additional factual and medical information.

On February 13, 2002 appellant provided the additional factual information requested by the Office. Regarding how the September 7, 2001 injury occurred, appellant stated that he was lifting computer equipment weighing 10 to 35 pounds. He reportedly moved the equipment from a van to the loading dock and from there to a classroom where he the set up the computer equipment. Appellant also stated that he delayed reporting his injury because he thought his symptoms were mild to moderate and were improving with home care. His low back pain quickly resolved and his right knee had noticeably improved; however, he continued to feel sharp pain in the knee and later experienced numbness in his right foot.

In a report dated February 1, 2002, Dr. Christian Peterson, appellant's treating osteopath, stated that appellant sustained a twisting injury at work on September 7, 2001. He diagnosed degenerative joint disease of the knee, which he attributed to appellant's employment.

Appellant also submitted physical therapy records for treatment received in February 2002. In a report dated February 12, 2002, a physical therapist noted complaints of right foot paresthesia and right knee pain. Appellant reportedly sustained an injury on September 7, 2001 “when he stepped onto a loading dock at work and lost his balance,” causing pain in the lumbar spine and right knee.

By decision dated February 26, 2002, the Office denied appellant’s claim. The Office found that the lifting and loading incident occurred on September 7, 2001, but that the evidence did not establish that appellant sustained an injury as a result of that incident.

By letter dated March 25, 2002, appellant requested review of the written record. Appellant also submitted a January 8, 2002 report from Dr. David B. Jackson who stated that appellant “stepped off a platform while carrying something, twisted to the side and had a sudden pain in his right knee.” Appellant related numbness in the toes of his right foot. Dr. Jackson noted that x-rays of the right knee revealed early degenerative changes and diagnosed internal right knee derangement and probable early degenerative joint disease. Additionally, appellant submitted a January 21, 2002 magnetic resonance imaging scan of the right knee that revealed a posterior horn tear of the medial meniscus, a Grade 1 sprain of the medial collateral ligament and a Grade 1 to 2 medial patellar retinacular sprain.

In a November 25, 2002 decision, the hearing representative affirmed the Office’s February 26, 2002 decision, finding that appellant failed to establish that he sustained a low back injury, right knee injury or right foot condition causally related to his federal employment. The hearing representative found that the medical evidence of record failed to establish that appellant’s conditions were causally related to his employment.

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on September 7, 2001.

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.¹

To establish a causal relationship between appellant’s condition and any attendant disability, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician’s opinion on the issue of whether there is a causal relationship between appellant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of appellant, must be one of reasonable medical certainty and must be supported by

¹ *Gloria J. McPherson*, 51 ECAB 441 (2000).

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.²

Appellant failed to submit such evidence in this case. The Office accepted that on September 7, 2001 the employment incident occurred as appellant alleged, that he was performing lifting and loading activities while in the performance of duty. Therefore, an examination of the medical evidence is required. In his January 8, 2002 report, Dr. Jackson diagnosed internal right knee derangement and probable early degenerative joint disease. However, the physician failed to provide a rationalized medical opinion establishing a causal relationship between appellant's conditions and the September 7, 2001 employment incident. The Board has held that a medical opinion not fortified by medical rationale is of little probative value.³ In his February 1, 2002 report, Dr. Peterson noted by checking a box "yes" that appellant's right knee degenerative joint disease was causally related to the September 7, 2001 incident. The Board has long held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish a claim.⁴ Further, both Dr. Jackson and Dr. Peterson related histories of injuries that differed from appellant's account of the September 7, 2001 incident. Dr. Jackson stated that appellant stepped off a platform and twisted to his side. Dr. Peterson stated that appellant sustained a twisting injury at work. These reports are inconsistent with appellant's accounts in which he stated that his injuries occurred as a result of lifting and carrying computer equipment from a van at the loading dock to a classroom. Appellant's accounts did not refer to his stepping onto the platform which caused a twisting injury. The medical reports, therefore, have little probative value inasmuch as they were not based on a complete and accurate medical history.⁵

Because appellant failed to submit a well-reasoned medical opinion explaining how the September 7, 2001 incident caused or contributed to his diagnosed medical conditions, he has failed to establish the critical element of causal relationship. He has not met his burden of proof.

² *Ruby I. Fish*, 46 ECAB 276 (1994).

³ *Caroline Thomas*, 51 ECAB 451 (2000).

⁴ *Lee R. Haywood*, 48 ECAB 145 (1997).

⁵ *William Nimitz, Jr.*, 30 ECAB 567 (1979).

The November 25, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 9, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member