United States Department of Labor
Employees' Compensation Appeals Board

J.J., Appellant	)	
and	)	**Docket No. 06-1678**
	)	**Issued: November 28, 2006**
U.S. POSTAL SERVICE, WEST PARK STATION, Cleveland, OH, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 17, 2006 appellant filed a timely appeal from decisions of the Office of Workers' Compensation Programs dated September 28, 2005 and June 16, 2006 which denied his claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he has a right knee condition causally related to a May 12, 2004 employment incident.

FACTUAL HISTORY

On May 24, 2004 appellant, then a 33-year-old letter carrier, filed a Form CA-1, traumatic injury claim, alleging that on May 12, 2004 he felt a sharp pain in his right knee while descending steps. He did not stop work but noted that the pain with swelling continued, making it difficult to deliver mail. Appellant submitted an emergency room report dated May 20, 2004 in which Dr. P. Anders, a Board-certified internist, noted appellant's history of experiencing right knee pain on May 12, 2004. Dr. Anders diagnosed knee bursitis and released appellant to

restricted duty. In a May 27, 2004 report, Dr. Michael M. Lew, a Board-certified orthopedic surgeon, noted that appellant had a work episode when he felt his knee buckle. Examination findings included slight effusion and anteromedial joint line tenderness. A June 30, 2004 magnetic resonance imaging (MRI) scan of the right knee demonstrated a bone bruise or degenerative changes in the medial tibial plateau region, a chronic cartilaginous defect involving the medial femoral condyle, question of an anterior cruciate ligament strain and no meniscal or ligamentous tear. On July 6, 2004 Dr. Lew noted the MRI scan findings and recommended a weight-loss program. On July 15, 2004 he noted appellant's continued complaint of knee pain and recommended arthroscopic surgery.

By letter dated September 13, 2004, the Office informed appellant of the evidence needed to support his claim. In a decision dated October 27, 2004, it found the May 12, 2004 incident established but denied the claim on the grounds that the medical evidence was insufficient.

On November 4, 2004 appellant, through counsel, requested a hearing and submitted additional medical evidence including reports from Dr. Lew. In an October 9, 2003 treatment note, Dr. Lew listed a three-month history of right knee pain and diagnosed internal derangement of the right knee. In an October 21, 2003 note, he reported that the MRI scan demonstrated cartilaginous flattening of the medial femoral condyle with degeneration of the medial meniscus and no sign of a tear. By report dated November 4, 2004, Dr. Lew again noted appellant's complaints and reiterated his prior recommendations. In a February 11, 2005 report, Dr. Irwin Mandel, Board-certified in orthopedic surgery, noted that appellant had been referred by Dr. Lew. He reported that appellant had reinjured his knee in December 2004. Dr. Mandel diagnosed right knee internal derangement with a medial meniscus tear and recommended surgery. He performed arthroscopic right knee surgery on April 12, 2005.

At the hearing, held on July 18, 2005, appellant testified that he had a nonwork-related right knee injury 15 years previously. Beginning in 2003, his knee began bothering him and he had cortisone shots. Appellant stated that the May 2004 injury caused a different kind of pain. On December 29, 2004 he hyperextended his knee at work, which caused a tear, noting that this injury had been accepted as employment related. Appellant's counsel stated that appellant was only seeking reimbursement for the June 2004 MRI scan.

By decision dated September 28, 2004, an Office hearing representative affirmed the October 27, 2004 decision, modified to find that the instant claim should be doubled with that of his December 29, 2004 injury.[1] On March 24, 2006 appellant, through his attorney, requested reconsideration. In a February 15, 2006 report, Dr. Mandel noted the history of the December 2004 right knee injury and that the February 8, 2005 MRI scan demonstrated a medial meniscus tear which was found during arthroscopy, in addition to arthritic changes within the medial femoral condyle and in the patellofemoral articulation. He advised:

> "The meniscus tear as well as exacerbation of his chondral lesions certainly can be related to injury from a torsional load to the knee from slipping on a step while at work. It is my feeling that his medial meniscus tear and exacerbation of his

[1] The instant claim was adjudicated by the Office under file number 092047321 and the December 29, 2004 injury under file number 092054832.

> discomfort due to his chondral injuries within reasonable medical certain[t]y, resulted due to his injury at work."

In a May 8, 2006 treatment note, Dr. Mandel stated that appellant had chronic right knee complaints and was working without difficulty. He diagnosed osteoarthritic right knee. By decision dated June 16, 2006, the Office denied modification of the September 28, 2005 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 period 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. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.[3]

Office regulations, at 20 C.F.R. § 10.5(ee) define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift.[4] In order to determine whether an employee sustained an injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.[5]

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.[6] Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.[7] Neither the mere fact

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[2] 5 U.S.C. §§ 8101-8193.

[3] *Gary J. Watling*, 52 ECAB 278 (2001).

[4] 20 C.F.R. § 10.5(ee); *Ellen L. Noble*, 55 ECAB 530 (2004).

[5] *Tracey P. Spillane*, 54 ECAB 608 (2003).

[6] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[7] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[8]

ANALYSIS

The Board finds that the evidence in this case establishes that appellant experienced the May 12, 2004 work incident in which he was delivering mail and experienced right knee pain. Appellant, however, failed to meet his burden of proof to establish that he sustained a right knee condition caused by this incident. The June 30, 2004 MRI scan of the right knee does not contain an opinion regarding the cause of any diagnosed condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[9] The reports submitted by Drs. Lew and Mandel, appellant's attending Board-certified orthopedic surgeons, are insufficient to meet his burden of proof. Dr. Lew reported that appellant began to have problems with his right knee three months prior to his examination in October 2003, ten months prior to the May 12, 2004 employment incident. While he noted appellant's report of a May 12, 2004 work incident, Dr. Lew did not attribute appellant's right knee condition to it. Dr. Mandel noted that appellant had injured his right knee at work in December 2004. He advised that a February 2005 MRI scan demonstrated a meniscal tear and arthritic changes. Dr. Mandel opined that these conditions were caused by a work injury. The record shows that appellant's December 2004 knee injury was accepted as employment related. However, Dr. Mandel did not mention the May 12, 2004 employment incident in his reports and failed to distinguish this incident from the December 2004 injury. The June 30, 2004 MRI scan obtained after the May 12, 2004 incident did not reveal a torn meniscus. Dr. Mandel noted that, after the December 2004 injury, a February 2005 MRI scan demonstrated such a tear. He did not address or contrast these diagnostic findings in his reports of record. A physician must provide a narrative description of what happened on the date in question so that the Office can determine whether he or she obtained an accurate history of injury. Appellant did not submit a reasoned medical opinion explaining how the May 12, 2004 incident caused or contributed to his right knee condition. He did not establish the critical element of causal relationship.[10]

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a right knee condition causally related to the May 12, 2004 employment incident.

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[8] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[9] *Willie M. Miller*, 53 ECAB 697 (2002).

[10] *See John W. Montoya*, 54 ECAB 306 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated June 16, 2006 and September 28, 2005 be affirmed.

Issued: November 28, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board