

2007 note, appellant further described her alleged factors of employment and her physical condition. She noted that, on November 27, 2006, she stepped out of her postal vehicle and as she reached to close the door, felt extreme pain shoot through her right knee and leg. Appellant also noted that previously in 2001 she had sustained a torn meniscus in the left knee, which had been surgically repaired.

Additional supporting documents were submitted. In a November 30, 2006 visit note Dr. Alan Hamilton, a family practitioner, diagnosed knee pain and degenerative joint disease in the knee and ordered magnetic resonance imaging (MRI) scan of the right knee. A November 30, 2006 MRI scan of the right knee revealed degenerative changes most marked in the medial as well as patellofemoral compartment; sprain of the femoral aspect of the medial collateral ligament; and moderate joint effusion. In December 4 and 12, 2006 progress notes, Dr. Hamilton evaluated appellant's knee. In a December 27, 2006 letter, Dr. Theodore R. Hofstedt, an orthopedic surgeon, diagnosed appellant with medial meniscal tear of the right knee and mild degenerative joint disease. In a January 8, 2007 note, he described how appellant stepped out of her truck and felt a sharp pain in her right knee. Dr. Hofstedt opined that appellant's work duties of walking and getting in and out of her truck onto her right leg aggravated her knee injury and led to the need for surgery. He also opined that the activities at work and stress on her right knee was consistent with a possible meniscal tear and could have aggravated any preexisting condition. In a January 15, 2007 note, Dr. Hofstedt stated that appellant had surgery on January 9, 2007 for right knee arthroscopy, which revealed significant tricompartmental degenerative changes and meniscal tears. He allowed appellant to return to light-duty work without prolonged walking, kneeling or squatting. In a January 24, 2007 post-surgery note Dr. Hofstedt described the January 9, 2007 surgery. In a February 21, 2007 note, Dr. Hofstedt explained appellant's right knee history, stated that she was released to light duty and would be starting physical therapy. In an undated letter appellant stated that she was trying to get a substantial medical opinion from Dr. Hofstedt.

In a February 13, 2007 letter, the Office informed appellant that additional information was needed to support her claim and advised her that she may need to file a claim for traumatic injury for the November 27, 2007 incident. In a February 9, 2007 letter, the employing establishment disputed that appellant's duties involved continuous standing and walking for 8 to 12 hours. The employing establishment stated that appellant performed office duties for approximately 2 to 2.5 hours, 1 hour of hop and stop, with intermittent sitting, standing and walking.

On March 20, 2007 the Office denied appellant's claim finding that the evidence was insufficient to establish that her claimed condition was causally related to her employment factors and that the November 27, 2007 incident was a separate knee injury.

On June 6, 2007 appellant requested reconsideration and submitted a report from Dr. Michael Steingart. In a May 1, 2007 report, Dr. Steingart reviewed appellant's medical records and opined that she sustained permanent impairment from her job due to the November 27, 2007 injury. He also opined that her knee problems are in a direct relationship to her job as a mail carrier as she did not have knee complaints prior to her employment. Dr. Steingart explained that appellant had preexisting chondromalacia and the injury she sustained at work aggravated it causing her current problems.

On September 12, 2007 the Office issued a merit decision denying modification of the previous decision. The Office found that the evidence did not demonstrate how appellant's employment caused pain in her right knee on November 15 or 27, 2007. The Office did not accept that appellant first became aware of her right knee problems on November 15, 2006.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹

The medical opinion needed to establish an occupational disease claim 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.²

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the condition and employment. Neither the fact that the condition became apparent during a period of employment, nor employee's belief that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relationship.³

ANALYSIS

Appellant filed an occupational disease claim. An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.⁴ The November 27, 2007 incident when she felt pain in her right knee after stepping out of her truck is a specific incident and would be considered a separate injury.⁵ The issue is not whether the stepping out of the truck on November 27, 2007 caused appellant's knee condition but whether the specific employment factors identified by her, such as walking, standing carrying a satchel and getting in and out of the truck over a period of time caused her knee condition.

¹ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB ____ (Docket No. 05-715, issued October 6, 2005).

² *Donald W. Wenzel*, 56 ECAB 390 (2005).

³ *Alberta S. Williamson*, 47 ECAB 569 (1996).

⁴ 20 C.F.R. § 10.5(q).

⁵ *Id.* at § 10.5(ee). "A traumatic injury means a condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift."

The medical evidence does not establish that appellant's employment factors caused her right knee condition. The medical evidence establishes that she has degenerative joint disease and a meniscal tear in the right knee. Appellant's factual statement claimed that she walked continuously for 8 to 12 hours; however her allegation was controverted by the employing establishment which stated that her walking, standing and sitting was only intermittent. The record establishes that appellant walks, stands and gets in and out of the truck as part of her employment duties for a period of time each day. None of the medical evidence attributes these work duties to be the cause of her degenerative joint disease and meniscal tear.

Dr. Hosftedt did not attribute appellant's knee condition to her employment duties over a period of time but rather to the November 27, 2006 incident. On January 8, 2007 he stated that appellant stepped out of her mail truck onto her right knee and felt immediate, sharp pain and has had problems since that time. In his February 21, 2007 note, Dr. Hofstedt again reported that appellant hurt her knee at work on November 27, 2006 while getting out of her mail truck and stepping on her leg. He did note that she had some knee pain prior to the injury but did not provide a diagnoses for this potential previous injury nor a cause.

Dr. Hamilton reported that appellant stepped out of her truck and felt a sharp pain on November 27, 2006 and diagnosed degenerative joint disease. He did not opine as to the cause of appellant's knee condition.

Dr. Steingart opined that appellant's knee problems were in a direct relationship with her mail carrier position arguing that she did not have knee complaints prior to her employment therefore the injuries occurred on the job. Neither the fact 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 a causal relationship.⁶ He also opined that she sustained permanent impairment from her job due to the November 27, 2006 injury. Dr. Steingart did not opine that appellant's condition was a result of her ongoing employment duties but that it was a result of the incident on November 27, 2006. He also stated that appellant "may" have had preexisting chondromalacia but the injury at work caused it to flare up causing her present problems. This is not a definitive diagnosis. An award for compensation may not be based on surmise, conjecture or speculation.⁷

To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by her as causing her condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.⁸ Such a report has not been submitted therefore appellant has not met her burden to establish that her employment conditions caused her right knee condition.

⁶ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁷ *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glann*, 53 ECAB 159 (2001).

⁸ *Calvin E. King*, 51 ECAB 394 (2000).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT September 12, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 1, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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