

U.S. DEPARTMENT OF LABOR
Office of Workers' Compensation Programs

DECISION OF THE HEARING REPRESENTATIVE

In the matter of the claim for compensation under Title 5, U. S. Code 8101 et. seq. of Jerome Boykin, Claimant; Employed by the U. S. Postal Service in Columbia, South Carolina. Case No. 062116963.

Examination of the written record was completed in Washington, D. C. Based on this review, the January 3, 2005 decision of the District Office is reversed for the reasons set forth below.

The issue for determination is whether the claimant sustained an injury as alleged.

The claimant, born September 30, 1942, is employed as a Letter Carrier for the U. S. Postal Service in Columbia, South Carolina. On June 16, 2004, he filed timely notice of a traumatic injury sustained on June 14, 2004 when he injured his left knee while stepping out of the postal vehicle to give a package to a customer. His left knee twisted, and he fell to the ground.

On November 30, 2004, the Office requested additional factual and medical evidence from the claimant.

On January 3, 2005, the Office denied the claim for the reason that the evidence failed to establish that he sustained an injury as alleged. Specifically, he did not submit medical evidence with an established diagnosis connected to the incident.

After the decision, the Office received numerous copies of medical records already on file. However, none of them contained the history of the employment incident, a diagnosis, or opinion on causal relationship.

The claimant disagreed with the decision and requested an oral hearing before an OWCP representative. Accordingly, said hearing was scheduled for October 18, 2005 in Charleston, South Carolina. Prior to the hearing, the claimant, through his

attorney, requested a review of the written record in lieu of the hearing.

The employing agency was notified of the request and invited to submit comments for consideration. No comments were submitted for consideration.

The claimant submitted a new report from Dr. Alfred Frye, D.O. dated June 9, 2005.

Based upon the written evidence of record, I find that the decision of the District Office dated January 3, 2005 should be reversed. Although the Office's decision was correct at the time, additional evidence submitted after the decision is sufficient to warrant acceptance of the claim.

Generally, "fact of injury" consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure that is alleged to have occurred. The second component is whether the employment incident or exposure caused a person injury and generally can be established only by medical evidence.¹

In the present case, the Office accepted that the claimant sustained an injury in the time, manner, and place alleged. He twisted his left knee while exiting his postal vehicle to deliver mail.

In his report of June 9, 2005, Dr. Frye cited the history of injury with the claimant twisting his knee while stepping out of the postal vehicle while carrying a package. The claimant noted sudden pain, and Dr. Frye diagnosed an acute exacerbation of degenerative arthritis of the left knee. Therefore, I find that the claimant has now established the medical component of fact of injury with Dr. Frye's diagnosis of a medical condition in connection with the work incident.

I also find that the claimant was in the performance of duty at the time of the incident since his job as a Letter Carrier requires him to use his postal vehicle to deliver mail.

¹Elaine Pendleton, 40 ECAB 1143 (1989).

However, a finding that an employee has met his or her burden of proof in establishing "fact of injury" is a finding distinct and separate from a finding that the employee has met his or her burden of proof in establishing that a causal relationship exists between the injury and any disability and/or specific condition for which compensation is claimed.²

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the conditions for which he claims compensation were caused or adversely affected by factors of his federal employment. This burden includes the submission of a detailed description of the employment conditions or factors which appellant believes caused or contributed to his conditions. This burden also includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background of appellant, which shows a causal relationship between the conditions for which compensation is claimed and the implicated employment factors or conditions.³

In his report, Dr. Frye, along with describing the history of injury and furnishing a medical diagnosis, stated that the injury "caused a temporary worsening of the degenerative arthritis in his (L) knee. This is what is meant by an acute exacerbation." He also noted that the claimant was released to regular duty on July 24, 2004. The case file does not establish any ongoing medical treatment beyond this date.

I find that Dr. Frye has provided an affirmative opinion on the causal relationship between the claimant's temporary exacerbation of his left knee arthritis and the work injury. Acceptance of the claim is warranted.

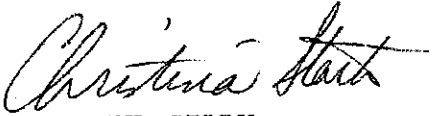
Upon return of the file, the Office should accept the claim for a temporary exacerbation of degenerative arthritis of the left knee and pay the appropriate entitled benefits.

²Elaine Pendleton, 40 ECAB 1143 (1989).

³Donald W. Long, 41 ECAB (Docket No. 89-1467 issued October 30, 1989).

Consistent with the above findings, the decision of the District Office dated January 3, 2005 is REVERSED and the case file returned for further action as described above.

DATED: DEC --6 2005
WASHINGTON, D.C.


CHRISTINA STARK
Hearing Representative
For
Director, Office of Workers'
Compensation Programs