

In the Matter of,)	
)	
CURTIS FIELDS,)	
)	
Claimant,)	
)	
v.)	AHD No. 06-337
)	OWC No. 616820
WASHINGTON METROPOLITAN AREA TRANSIT)	
AUTHORITY,)	
)	
Self-Insured Employer.)	

Appearances:

MARK L. SCHAFFER, ESQUIRE
For the Claimant

SARAH O. ROLLMAN, ESQUIRE
For the Self-Insured Employer

Before:

ANAND K. VERMA
Administrative Law Judge

COMPENSATION ORDER

STATEMENT OF THE CASE

This proceeding arises out of a claim for workers' compensation benefits filed pursuant to the provisions of the District of Columbia Workers' Compensation Act of 1979, D.C. Code, as amended, §§32-1501 *et seq.*, (hereinafter, the Act).

After timely notice, a formal hearing was held on October 3, 2006, before Anand K. Verma, Administrative Law Judge. Curtis Fields,

appeared in person and through counsel (hereinafter, claimant). Washington Metropolitan Area Transit Authority (hereinafter, employer) appeared by counsel. Claimant testified on his own behalf. Luis Cortez testified on behalf of employer. Claimant Exhibit (hereinafter, CE) No.1-7 and Employer Exhibit (hereinafter, EE) No.1-5, described in the Hearing Transcript, (hereinafter, HT) were admitted into evidence. The record closed on the receipt of an official copy HT on October 18, 2006.

BACKGROUND

Claimant, a 50 years old elevator technician, while removing and replacing an escalator step on January 19, 2005, injured his right knee when he slipped on a greasy axle. After notifying his supervisor of the injury, claimant went home and soaked his knee. He returned to work the following day and worked until his knee began to hurt, compelling him to seek treatment from James E. Gilbert, M.D., an orthopaedic surgeon on March 22, 2005, who diagnosed him with medial meniscal tear of the right knee. Dr. Gilbert performed claimant's right knee arthroscopy¹ on April 19, 2005 and placed him in an off-work status until July 25, 2005. Feeling better, claimant returned to work thereafter. However, claimant's right knee became symptomatic again prompting him to see Dr. Gilbert on September 6, 2005, when he discussed the benefits of orthotics. Claimant followed up with Dr. Gilbert until April 4, 2006 when he noted the results of the March 2, 2006 MRI scan of the right knee which disclosed a complex injury to the posterior horn of the medial meniscus. Dr. Gilbert recommended another surgery to the right knee which has not been performed.

CLAIM FOR RELIEF

Claimant seeks an award under the Act of temporary total disability benefits from April 19, 2005 to July 25, 2005 along with causally related medical expenses.

ISSUE

Whether claimant's right knee injury on

January 19, 2005 arose out of and in the course of employment.

FINDINGS OF FACT

The parties have stipulated, and I accordingly so find, an employer/employee relationship is present under the Act; jurisdiction is vested in the District of Columbia; claimant sustained an accidental right knee injury on January 19, 2005; claimant provided timely notice of the injury; the claim was timely filed; claimant's average weekly wage is \$1,472.53; and employer has paid claimant wages from April 19, 2005 through July 25, 2005.

Based on the review of the record as a whole, I make the following findings:

Claimant worked for employer on January 19, 2005 as an elevator technician, when in the course of replacing an escalator step, he slipped on a greasy axle and injured his right knee. After notifying his supervisor of his injury, claimant went home that day and soaked his knee. Claimant returned to work the following day and continued to work until his knee became severely symptomatic which prompted him to seek medical care from Dr. Gilbert on March 22, 2005. Dr. Gilbert diagnosed him with the medial meniscal tear of the right knee and recommended arthroscopy. On April 19, 2005, claimant underwent arthroscopy of the right knee and in the post-operative follow up of April 21, 2005, Dr. Gilbert, noting progress in the healing of wounds, referred him for physical therapy and placed him in an off-work status for approximately eight (8) weeks.

Feeling "90% better," claimant returned to Dr. Gilbert on September 6, 2005, when he discussed the benefits of orthotics. In the next follow up of December 27, 2005, claimant complained of a

¹Examination of the interior of a joint with an arthroscope. DORLAND'S ILLUSTRATED MEDICAL DICTIONARY, 29th Edition, p.153 (2000).

flare up of the right knee in that he felt pain after playing basketball. The x-ray of claimant's right knee except for mild degenerative changes was otherwise normal. Dr. Gilbert injected the right knee with cortisone and prescribed a home exercise program in conjunction with Ultracet. In a subsequent follow up on February 21, 2006, claimant complained of pain over the medial aspect of the knee that significantly compromised the activities of his daily living. Claimant's physical examination disclosed tenderness and positive McMurray sign.² Ordering an MRI scan of the right knee, Dr. Gilbert explained the risks and benefits of another arthroscopic surgery of the right knee.

Claimant's right knee MRI scan of March 2, 2006 revealed a complex injury pattern to posterior aspect of the medial meniscus and anterior aspect of the lateral meniscus. Claimant last saw Dr. Gilbert on April 4, 2006 when he discussed the findings of the MRI scan as well as the risks and benefits of the proposed arthroscopic surgery.

Claimant is currently employed in his pre-injury position.

DISCUSSION

I have reviewed the arguments of counsel with respect to the issue presented herein. To the extent an argument is consistent with the findings and conclusions, it is accepted; to the extent an argument is inconsistent therewith, it is rejected.

²The occurrence of a clicking sound, during the manipulation of the knee, which is indicative of an injury of a meniscus of the knee joint. 4 J.E. Schmidt, M.D., ATTORNEYS' DICTIONARY OF MEDICINE, M-72 (1999).

Whether claimant's right knee injury on January 19, 2005 arose out of and in the course of employment.

With respect to whether a claimant sustained an accidental injury arising out of and in the course of her employment, the Act mandates that it be presumed, in the absence of evidence to the contrary, that a claim comes within the purview of the Act. D.C. Code §32-1521(1) (2001)(as amended)); *Ferreira v. District of Columbia Department of Employment Services*, 531 A.2d 651, 655 (D.C. 1987). The presumption is designed to effectuate the important humanitarian purposes of the statute and reflects a "strong legislative policy favoring awards in arguable cases." *Ferreira, supra*, at 655. To invoke this presumption, claimant must make some "initial demonstration" of (1) an injury; and (2) a work related event, activity, or requirement which has the potential of resulting in or contributing to the injury. *Id.* Thus, to establish a right to compensation, claimant must introduce evidence of both an injury and a relationship between that injury and the employment. See, e.g., *Whittaker v. District of Columbia Department of Employment Services*, 668 A.2d 844 (D.C. 1995).

When the preliminary evidence has satisfied this threshold requirement, the burden of production shifts to the employer to present substantial evidence which is "specific and comprehensive enough to sever the potential connection between a particular injury and a job-related event." *Parodi v. District of Columbia Department of Employment Services*, 560 A.2d 524, 526 (D.C. 1989). Absent such evidence, the claim will be deemed to fall within the scope of the Act, *Id.* at 526, and a causal relationship will also be presumed. *Ferreira, supra*, at 655. When evidence is presented that is sufficient to sever the injury from the work and overcome the presumption that a claimant's injury stems from

any work-related event, activity or requirement, the presumption falls from consideration and all evidence submitted must be weighed without recourse to the presumption. Conversely, where employer fails to rebut the *prima facie* case, the presumption of compensability supplies the legally sufficient nexus between claimant's condition and her injury as well as the causal relationship between the injury and her employment. *Parodi, supra*, at 526.

The first stage of the analysis is whether an "initial demonstration" was made that was sufficient to invoke the Act's presumption of compensability of the claim. Claimant's job as an elevator technician involved repairing the escalator that required removing the steps, metal racks and other moving parts attached to the escalator. In the process of taking off the rack on January 19, 2005, claimant slipped and fell on one of the escalator axles injuring his right knee. In claimant's initial examination on March 24, 2005, Dr. Gilbert diagnosed him with medial meniscal tear of the right knee and in an addendum dated September 6, 2005, he noted that claimant "did injure himself at work on 01/19/05," when he "was working on an escalator." (EE 1). Accordingly, without recourse to more, claimant's evidence meets the statutory threshold to invoke the presumption of compensability. Now the burden of production shifts to employer to present substantial evidence in rebuttal of the presumed connection.

The evidence proffered by employer contains Dr. Gilbert's treatment reports as well as the various disability slips certifying claimant's inability to resume his work. The record evidence shows no independent medical evaluation of claimant by employer's physician reflecting upon the causality of the right knee

injury. Thus, absent employer's rebuttal evidence, the statutory presumption of compensability stands unrebutted. See *Parodi, supra*.

CONCLUSION OF LAW

Based upon a review of the record evidence as a whole, I find and conclude claimant's right knee injury arose out of and in the course of his employment on January 19, 2005.

ORDER

It is **ORDERED** claimant's claim for relief be, and hereby is **GRANTED**, subject to employer's credit for wages paid between April 19, 2005 through July 25, 2005.

ANAND K. VERMA
Administrative Law Judge

November 14, 2007
Date