

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of IVERY L. HAMMOND and U.S. POSTAL SERVICE,
POST OFFICE, San Francisco, CA

*Docket No. 98-50; Submitted on the Record;
Issued July 27, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant sustained a recurrence of disability on February 12, 1978 causally related to his July 4, 1975 accepted employment injury.

The Board has duly reviewed the case record and concludes that appellant has not established that he sustained a recurrence of disability causally related to his July 4, 1975 accepted employment injury.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained an aggravation of his preexisting flatfoot condition, painful bilateral metatarsal joints, on July 4, 1975 when he dropped a mail sack on his feet in the course of his federal employment. The Office subsequently accepted that appellant sustained a recurrence of his disability for the period of November 20, 1976 through January 9, 1977, less days he worked on December 20 and 21, 1976. The Office rejected, however, appellant's claim for a recurrence of disability for intermittent periods between March 20 and June 20, 1977.

On November 10, 1996 appellant filed a notice of recurrence of disability alleging that he suffered a recurrence of disability on February 12, 1978 alleging that he continued to have problems with his right big toe, which was injured at the employing establishment when a bag fell on it.

On March 13, 1997 the Office requested additional information including a physician's opinion with supporting explanation addressing the causal relationship between appellant's present disability/condition and the original injury.

In support of his claim, appellant submitted an April 11, 1997 report from Dr. Robert Dibble, a podiatrist, in which he examined appellant's left foot and diagnosed neuritis. Dr. Dibble indicated that "[C]ertainly this might have come at the time of surgery."

By decision dated May 16, 1997, the Office found that the evidence failed to establish a medical condition causally related to factors of his July 4, 1975 work injury. The Office noted that Dr. Dibble's report failed to indicate how appellant's right foot condition was related to the original injury.

Appellant subsequently requested reconsideration.

In support of his request, appellant submitted an April 11, 1997 report from Dr. Roger J. Jackman, a Board-certified radiologist, diagnosing a bone spur on the first metatarsal of appellant's left foot. He indicated that there was mild hallux valgus, with moderate degenerative changes in the first metacarpophalangeal joint, particularly involving the underlying sesamoid bones. Dr. Jackman stated that there was a resection of the medial aspect of the first metatarsal head, with some irregular hypertrophic bone seen along the distal medial aspect of the metatarsal shaft, adjacent to the head. He indicated that very minimal bunion formation was seen in the lateral aspect of the fifth metatarsal head.

Appellant also submitted a July 3, 1997 report from Dr. Rothermel, a podiatrist, indicating that appellant's old hallux limitus problem of the first metacarpophalangeal joint of the right foot was flaring up. On August 4, 1997 Dr. Rothermel indicated that he continued to treat appellant for the same problem.

Appellant subsequently submitted a May 18, 1988 report from Dr. Rothermel diagnosing a "hallux limitus, first metacarpophalangeal right foot."

Dr. S. Finkelstein performed surgery on appellant's right forefoot on May 18, 1988. He indicated that the first metacarpophalangeal joint was considerably narrowed with prominent marginal spurs, particularly laterally. Dr. Finkelstein stated that he also presumed that there was dorsal spurring as well.

By decision dated August 21, 1997, the Office reviewed appellant's claim on its merits and denied modification because that evidence submitted in support of the application was not sufficient to warrant modification of the prior decision. In an accompanying memorandum, the Office indicated that appellant failed to submit any medical information addressing whether appellant's current condition was related to the accepted July 4, 1975 work injury.

Where appellant claims a recurrence of disability to an accepted employment-related injury, he has the burden of establishing by the weight of the reliable probative evidence that the recurrence of the condition for which he seeks compensation is causally related to the accepted employment injury.¹ As part of this burden, appellant must submit rationalized medical opinion evidence based on a complete and accurate factual and medical background showing a causal relationship between the current condition and the accepted employment-related injury.

In the instant case, appellant has failed to submit medical evidence which relates his current condition to his July 4, 1975 accepted employment injury. The April 11, 1997 report of

¹ See *Henry L. Kent*, 34 ECAB 361 (1982); *Dennis E. Twadzik*, 34 ECAB 536 (1983).

Dr. Dibble, a podiatrist, indicated that appellant's neuritis of the left foot might have come at the time of surgery for his accepted condition. Because this opinion relates to appellant's left foot and appellant claimed a recurrence of disability for his right foot, this opinion is not relevant to this claim. Moreover, Dr. Dibble's opinion is entitled to little weight because it is equivocal.² The remaining opinions submitted by Dr. Jackman, a radiologist, on April 11, 1997 by Dr. Rothermel, a podiatrist, on August 4 and July 3, 1997 and May 18, 1988 and by Dr. Finkelstein on May 18, 1988 failed to discuss whether appellant's condition was related to his July 4, 1975 accepted employment injury. The Office, therefore, properly found that appellant failed to establish a recurrence of disability.

The decisions of the Office of Workers' Compensation Programs dated August 21 and May 16, 1997 are affirmed.

Dated, Washington, D.C.
July 27, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

² *Alberta S. Williamson*, 47 ECAB 569 (1996).