

**United States Department of Labor
Employees' Compensation Appeals Board**

L.C., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,
Richmond, VA, Employer

)
)
)
)
)
)
)
)
)
)

**Docket No. 06-2165
Issued: March 7, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 26, 2006 appellant filed a timely appeal from a September 1, 2006 decision by the Office of Workers' Compensation Programs that denied his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant met his burden of proof in establishing that he developed an occupational disease in the performance of duty.

FACTUAL HISTORY

On June 17, 2005 appellant, then a 50-year-old mail processor, filed an occupational disease claim alleging that he developed degenerative joint disease of the right great toe over the course of eight years of employment. He stated that his job aggravated his condition by requiring him to stand and walk for 8 to 10 hours per day, 6 days per week. Appellant first

became aware of his condition on February 1, 2004 and first related it to his employment on February 11, 2005. He did not stop work.

On July 26, 2005 the Office requested additional information concerning appellant's claim.

By decision dated August 29, 2005, the Office denied appellant's occupational disease claim on the grounds that the evidence of record was insufficient to establish that appellant sustained an injury under the Federal Employees' Compensation Act.¹

Appellant requested reconsideration on July 11, 2006. He submitted a May 5, 2006 report from Dr. Jonathan Brantley, a podiatrist, who stated that appellant underwent surgery on his right great toe to "relieve a severe arthritic condition, which has been caused by the type of occupation he is engaged in." The report also noted that appellant aggravated his condition when he engaged in prolonged standing or walking or repetitive stooping at work. Dr. Brantley stated that surgery had improved appellant's situation but had not corrected his arthritic problems.

Appellant also submitted an undated statement noting that he believed his claim was denied at least in part because his injury "did not occur on a specific date or time but over a period of time." He advised the Office that he was unable to stand or walk more than two hours per day and that his condition continued to deteriorate.

By decision dated September 1, 2006, the Office denied modification of its August 29, 2005 decision. The Office noted that Dr. Brantley's report made mention of surgery and severe arthritis but failed to provide a history of appellant's condition or its progression.

LEGAL PRECEDENT

An employee seeking benefits under the Act 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 disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.⁴ The test for determining whether an employee sustained a compensable occupational disease or injury is three-pronged. To

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *D.D.*, 57 ECAB ___ (Docket No. 06-1315, issued September 14, 2006).

establish the factual elements of the claim, a claimant must submit: “(1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the factors identified by the claimant.”⁵

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant⁷ and must be one of reasonable medical certainty⁸ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS

Appellant submitted medical evidence that diagnosed an arthritic right great toe, for which he underwent surgery. He attributed his condition to standing and walking required in his federal employment. However, the Board finds that appellant failed to meet his burden of proof in establishing that he developed an occupational disease in the performance of duty. He did not submit sufficient medical evidence to establish that the employment factors that he identified caused or aggravated his claimed condition.

Appellant submitted the May 5, 2006 report of Dr. Brantley who diagnosed a “severe arthritic condition.” However, Dr. Brantley’s May 5, 2006 report does not adequately address causal relationship. The report noted that appellant had undergone surgery on his great toe and stated that appellant’s condition was “caused by the type of occupation he is engaged in.” However, Dr. Brantley did not address appellant’s medical history or set forth findings on physical examination. He did not provide a rationalized medical opinion explaining how appellant’s employment activities would cause or contribute to the arthritis in his right great toe.¹⁰ Dr. Brantley did not explain the medical processes by which particular work duties would have caused or aggravated the diagnosed condition. Without such explanation, his report is

⁵ *Michael R. Shaffer*, 55 ECAB 386, 389 (2004), citing *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 3.

⁶ *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁷ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁸ *John W. Montoya*, 54 ECAB 306 (2003).

⁹ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹⁰ The Board has held that a medical opinion not fortified by medical rationale is of little probative value. *Caroline Thomas*, 51 ECAB 451, 456 n.10 (2000); *Brenda L. Dubuque*, 55 ECAB 212, 217 (2004).

insufficient to establish that appellant developed a medical condition causally related to factors of his federal employment.

Appellant contends that his claim was denied, in part, because his condition developed over a period of time rather than on a specific date or time. However, the Board notes that appellant properly filed an occupational disease claim alleging that his condition developed over a prolonged period of time.¹¹ The Office properly adjudicated it as an occupational disease claim, rather than a traumatic injury, as both appellant's claim form and the facts as alleged indicate that his great toe condition developed over a period of time. As noted, the basis for the denial of the claim is the lack of reasoned medical evidence explaining how and why particular employment factors caused or aggravated his right great toe arthritis and necessitated surgery.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof in establishing that he developed an occupational disease over the course of his employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 1, 2006 is affirmed.

Issued: March 7, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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

¹¹ An occupational disease or illness is a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q); see *Beverly A. Spencer*, 55 ECAB 501 (2004).