

not contain a rationalized opinion on causal relationship. The history of the case was discussed in the Board's prior decision and is incorporated herein by reference.

Appellant requested reconsideration of his claim and submitted additional medical evidence. In a report dated April 10, 2006, Dr. H. Gerard Siek, Jr., an orthopedic surgeon, stated that appellant's job had required that he stand eight hours per day at the back of a small tow vehicle while leaning against a back rest. He stated that appellant had to press down continuously with his right foot on a pedal while holding his left foot on another pedal. Dr. Siek indicated that appellant had to tense up his feet, which became exhausting over an eight-hour period. The constant tension caused contracture of the flexor tendons of the second, third and fourth toes of the right foot, and later the same problem on the left foot. Dr. Siek opined that the problems involving the toes of both feet were definitely related to his work activity. He diagnosed bilateral severe pes planus, status post excision of the proximal heads of the phalanges of both fifth toes, status post capsulotomies and tenolysis of the flexor tendons of second through fourth right foot toes and third and fourth left foot toes.

In a report dated May 9, 2006, Dr. Harold Vogler, a podiatrist, stated in his history that appellant "had a long-standing history of job-related problems pursuant to his feet..." He provided results on examination and stated neurological testing demonstrated neuropathy of the left leg and plantar aspect of the foot and toes. Dr. Vogler stated, "Neuropathy impact related, occupationally induced as a result of long-term repetitive left extremity impact against motorized operational vehicle."

By decision dated August 16, 2006, the Office reviewed the case on its merits and denied modification. The Office found that the medical evidence was based on an inaccurate history.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, 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 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.⁴

² 5 U.S.C. §§ 8101-8193.

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁶ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁷

ANALYSIS

On reconsideration appellant submitted an April 10, 2006 report from Dr. Siek. The Office found that the report was based on an inaccurate history, because the statement that appellant continually pressed both pedals for eight hours was untrue. In support of its conclusion, the Office referred to the September 28, 2005 decision of the hearing representative, who stated that appellant exerted pressure on a pedal intermittently throughout the day.

The testimony of appellant, however, was that he exerted pressure constantly with his left foot on a pedal to keep the motor running. With his right foot, he operated the tow motor by pressing the pedal for acceleration and using the brakes. Appellant also stated that commencing in 1994 or 1995 he operated the tow motor eight hours per day. No contrary evidence is contained in the record. The history provided by Dr. Siek that appellant operated the motor eight hours a day, held his left foot on a pedal and continuously used his right foot on another pedal is essentially an accurate description of appellant's job duties.

Dr. Siek opined that appellant's left and right foot conditions and surgeries were causally related to his federal employment. He explained the constant tension of the feet caused a contracture of flexor tendons in the toes. While Dr. Siek's opinion is not sufficient to meet appellant's burden of proof, the Board finds his opinion is of sufficient probative value to require further development of the medical evidence.⁸

The case will be remanded to the Office for further development of the medical evidence. After such further development as the Office deems necessary, it should issue an appropriate decision.

CONCLUSION

The report from Dr. Siek is of sufficient probative value to require further development of the medical evidence.

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ See *Rebel L. Cantrell*, 44 ECAB 660 (1993); *Udella Billups*, 41 ECAB 260 (1989).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 16, 2006 is set aside and the case remanded for further action consistent with this decision of the Board.

Issued: May 21, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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