

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

O.M., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Atlanta, GA, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 08-861
Issued: August 11, 2008**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 30, 2008 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated November 29, 2007 denying his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established an injury causally related to factors of his federal employment.

FACTUAL HISTORY

On March 16, 2007 appellant, then a 51-year-old mail processing clerk, filed an occupational disease claim (Form CA-2) alleging that a degenerative joint condition was aggravated by his federal employment. He reported that he became aware of an employment-related condition on June 14, 2004. Appellant described the injuries as involving his knees, hips, spine and feet. The reverse of the claim form indicated that he had not stopped working.

In a narrative statement, appellant reported that he had degenerative joint disease in his knees, hips and spine. He also noted a helloma molle of his right foot.¹ Appellant stated that his job included standing, bending, reaching, walking, lifting, stooping, twisting, turning, pushing and pulling. He indicated that he worked on flat concrete and asphalt tiles.

With respect to medical evidence, appellant submitted a July 16, 2004 report from Dr. Tracey Walton, a podiatrist, who noted hammertoes and helloma molle of the fourth web space in the right foot, with pain worse on physical activity such as walking. A November 6, 1989 letter from the Department of Veterans Affairs (VA) reported a 30 percent disability for a flat foot condition and 10 percent for a “condition of the skeletal system.”

By decision dated June 6, 2007, the Office denied appellant’s claim for compensation. It found the medical evidence was insufficient to establish the claim.

Appellant requested reconsideration of his claim on September 28, 2007. The evidence submitted included a September 6, 2007 report of Dr. S. Brown-Johnson, a VA physician, who stated that appellant had a history of degenerative spine disease with chronic cervical and lumbar pain. Dr. Brown-Johnson stated that, due to the degenerative changes in the spine, appellant should avoid heavy lifting, stooping and repetitive bending, as these activities will aggravate his condition.

In a report dated September 13, 2007, Dr. Jeffrey Frenchman, a podiatrist, diagnosed exostosis, helloma molle, hammertoe, hallux valgus and pes planus. He opined that the flat foot condition was contributing to the callous, hammertoe and bunion conditions, and that appellant would experience increased pain with prolonged walking and standing.

By decision dated November 29, 2007, the Office reviewed the case on its merits. The Office found the evidence was insufficient to warrant modification of the prior decision.

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;

¹ Helloma molle is a soft callus or corn between the toes.

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).

and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

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

In the present case, appellant appears to be alleging that his federal employment as a mail processing clerk aggravated preexisting degenerative spine, knee and hip conditions, as well as foot conditions such as pes planus and helloma molle. On appeal, he notes that he has a VA disability, and feels the Office did not properly take this into account. A decision regarding appellant's entitlement to benefits from the VA does not establish entitlement to compensation benefits. The findings of other administrative agencies have no bearing on proceedings under the Act, which is administered by the Office and the Board.⁸ Appellant also indicated that he had a prior claim for injury on April 22, 1991 and appeared to assert the current claim was a recurrence of disability. If he is claiming that repetitive job duties aggravated his condition, then he properly filed a claim for a new injury.⁹

It is, as noted above, appellant's burden to submit the necessary medical evidence to establish the claim. There must be medical evidence with a complete and accurate history, a diagnosis and a rationalized medical opinion on causal relationship between the diagnosed condition and the identified employment factors. There is no rationalized medical evidence of record. Dr. Brown-Johnson indicated that appellant should avoid certain activities as they would aggravate his degenerative condition, without providing a rationalized medical opinion on causal relationship between federal employment and a diagnosed condition. Dr. Frenchman reported that appellant would probably experience increased pain with prolonged walking and standing, but he does not provide a medical opinion relating a diagnosed condition to federal employment. In the absence of probative medical evidence on causal relationship, the Board finds appellant did not meet his burden of proof in this case.

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

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

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

⁷ *Id.*

⁸ *See James Robinson, Jr.*, 53 ECAB 417 (2002); *Burney L. Kent*, 6 ECAB 378 (1953).

⁹ *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(2) (May 1997).

CONCLUSION

Appellant did not submit sufficient medical evidence to meet his burden of proof to establish an injury causally related to his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated November 29 and June 6, 2007 are affirmed.

Issued: August 11, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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