

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

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R.T., Appellant)	
)	
and)	Docket No. 08-1450
)	Issued: November 17, 2008
)	
U.S. POSTAL SERVICE, POST OFFICE,)	
Omaha, NE, Employer)	
)	

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
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 21, 2008 appellant filed a timely appeal from an April 8, 2008 merit decision of the Office of Workers' Compensation Programs denying his claim. 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 established that he sustained a left foot injury in the performance of duty, causally related to factors of his federal employment.

FACTUAL HISTORY

On January 23, 2008 appellant, then a 57-year-old mail processing clerk, filed an occupational disease claim alleging that employment factors caused injury to his left ankle. He claimed he first noticed pain while at work on December 18, 2007 after "stepping on [his] left foot and getting a sharp pain in the instep location of the left foot." Subsequently, appellant intermittently missed work and was put on light duty. He claimed that his foot injury was caused by "working a lot on hard cement floors eight hours a day," moving equipment up to 600

pounds, and the constant movement, bending, lifting and walking required by his position. Appellant noted that he “never had a similar injury of this nature.”

On December 25, 2007 appellant stated that while getting out of bed he “again stepped on [his] left foot wrong, again felt sharp pain in left foot.” On December 31, 2007 he saw Wendy Johnson, a physician’s assistant. Appellant saw Ms. Johnson again on January 8, 2008, at which time he was referred to Edward N. Prikaszczikow, a podiatrist.

In progress notes dated January 8, 2008, Dr. Prikaszczikow diagnosed appellant with posterior tibial tendon dysfunction of the left foot and bilateral pronation. In a duty status report dated February 19, 2008, he found tenosynovitis in appellant’s left foot and recommended appellant only work four to six hours a day.

In response to the Office’s February 26, 2008 request for further factual and medical information, appellant submitted additional progress records from Dr. Prikaszczikow dated January 8 through February 29, 2008. On February 13, 2008 Dr. Prikaszczikow recorded that appellant “somehow hurt his right foot,” felt a sudden pain when he stepped out of bed on February 12, 2008, and was experiencing trouble walking due to continued pain. He diagnosed appellant with a contusion on his lateral right foot and stated, “I think this positioning in getting out of bed, along with putting full weight on the foot, caused some jamming of the joints on the lateral column.” Dr. Prikaszczikow further stated that the injury was “indirectly related to [appellant’s] work injury” to his left foot.

In an April 8, 2008 decision, the Office denied appellant’s claim. It found that, while appellant established he was a federal employee and he had filed a timely claim, he did not provide medical evidence demonstrating that his left foot condition was caused by his employment.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence,² including that he is an “employee” within the meaning of the Act³ and that he filed her claim within the applicable time limitation.⁴ The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.⁵

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB ___ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

³ *See M.H.*, 59 ECAB ___ (Docket No. 08-120, issued April 17, 2008); *Emiliana de Guzman (Mother of Elpedio Mercado)*, 4 ECAB 357, 359 (1951); *see* 5 U.S.C. § 8101(1).

⁴ *R.C.*, 59 ECAB ___ (Docket No. 07-1731, issued April 7, 2008); *Kathryn A. O’Donnell*, 7 ECAB 227, 231 (1954); *see* 5 U.S.C. § 8122.

⁵ *G.T.*, 59 ECAB ___ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.⁷

ANALYSIS

The Office accepted that appellant experienced pain in his left foot while in the performance of duty. The issue is whether appellant submitted sufficient medical evidence to establish that his claimed left foot condition was caused by his employment as a mail processing clerk. The Board finds that appellant failed to meet his burden of proof in establishing that his left foot injury was causally related to factors of his federal employment.

Appellant alleged that his employment duties of moving heavy equipment and constantly moving, bending, lifting and walking, all on a hard cement floor, caused his left foot condition. However, his belief alone, does not meet his burden to establish causation. Rather, appellant must provide rationalized medical opinion establishing a causal relationship between these employment duties and his diagnosed condition.⁸

Appellant submitted progress reports and duty status reports from Dr. Prikaszczikow, however none of these reports contain rationalized medical opinion explaining how his left foot condition was caused by his employment duties. On duty status reports dated February 19 and 29, 2008 the box requesting the physician to "[d]escribe how the injury occurred" was left blank. Moreover, the only mention of causation in the progress notes was on February 13, 2008, where Dr. Prikaszczikow mentioned an injury to his right foot was "indirectly related" to his work injury to the left foot. This statement does not meet the standard for rationalized medical opinion because it asserts a conclusion but does not explain how the conclusion was reached. Therefore, the Board finds that Dr. Prikaszczikow has not established a causal relationship between appellant's left foot condition and the accepted factors of employment. Because the physician did not describe the connection between appellant's left foot symptoms and his employment, the Office properly denied his occupational disease claim.

⁶ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ See *id.*

CONCLUSION

The Board finds that appellant has not established that he sustained a left foot injury in the performance of duty, causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the April 8, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 17, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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