



claim for right Achilles tendinitis and aggravation of right valgus deformities. By decision dated September 3, 2008, it denied appellant's claim for a consequential left ankle and foot condition. Appellant accepted a light-duty work assignment on February 19, 2010.

On August 29, 2011 appellant filed a notice of recurrence of disability alleging that on February 17, 2011 she sustained a recurrence of disability due to her accepted occupational injury of September 1, 2005 and her August 2, 2010 traumatic employment injuries, the latter which OWCP assigned File No. xxxxxx839.<sup>2</sup> She stated that she returned to limited-duty work with a sit-down job and lifting restriction of 10 pounds. Appellant was also restricted in her pushing, pulling and machine work. She stated that on February 15, 2011 her supervisor instructed her to label the machine for the casuals. Appellant stated that she attempted to perform this task for 15 minutes and developed neck pain.

In a letter dated September 6, 2011, OWCP provided appellant with the definition of a recurrence of disability and allowed her 30 days to submit additional factual and medical evidence. Appellant stated in an August 29, 2011 statement that her September 1, 2005 employment injury caused her body to shift and develop swelling in her right ankle. She alleged that she also developed left ankle swelling as well as bilateral small fiber neuropathy. Appellant attributed her condition to her duties of being a mail processor for 16 years including using repetitive motion, excessive strain of lifting on hard concrete with no fatigue mat for years as well as pushing and pulling. She stated that her feet hurt so badly that it was painful to walk, her legs constantly ached and her neck was painful.

On January 28, 2010 Dr. Laurence J. Kinsella, an internist, stated that appellant reported bilateral foot numbness and sharp shooting pain from the sole of her foot to the back of her leg. Dr. Tracy Reed, a podiatrist, examined appellant biweekly from October 8, 2007 through September 29, 2008 due to bilateral Achilles tendinitis, bilateral plantar fasciitis, bilateral flat feet and neuropathy.

In a statement dated October 17, 2011, appellant stated that she was not born with deformed feet and that the lack of fatigue mats on concrete floors at the employing establishment caused repeated trauma on her ankles, feet and legs.

Dr. S. Thomas Sehy, a podiatrist, completed a note on November 3, 2011 and diagnosed Achilles tendinitis bilaterally. He stated that appellant never recovered from her original injury of Achilles tendinitis with probable partial tearing. Dr. Sehy stated that her diagnosis developed into tendinitis because the tendons never healed properly and because she had not undergone surgery.

By decision dated September 9, 2011, OWCP denied appellant's claim for recurrence of disability. Appellant requested reconsideration. Dr. Kinsella examined her on December 27, 2007 and noted her bilateral foot pain for 13 years. He stated that appellant worked on a very hard surface and that in 2005 while pushing a 1,000-pound cart she developed acute right ankle

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<sup>2</sup> OWCP denied appellant's traumatic injury claim in File No. xxxxxx839, finding that she had not sustained any employment-related injuries to her neck, back or shoulders on August 2, 2010 as a result of a defective key latch from a cage falling on her.

strain. Dr. Kinsella noted her increased left leg symptoms and diagnosed burning feet syndrome and psychogenic movement disorder.

By decision dated January 3, 2013, OWCP denied appellant's claim for recurrence of disability.

### **LEGAL PRECEDENT**

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>3</sup>

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establish that he or she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>4</sup>

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between her recurrence of disability commencing February 17, 2011 and her September 1, 2005 employment injury.<sup>5</sup> This burden includes that necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>6</sup>

### **ANALYSIS**

Appellant alleged that she sustained a recurrence of disability on February 17, 2011 due to her September 1, 2005 employment injury. OWCP accepted her September 1, 2005 occupational employment injury for right Achilles tendinitis and aggravation of right valgus deformities. Appellant stated that her supervisor assigned her to label the machine for casuals and that this work caused her neck to hurt.

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<sup>3</sup> 20 C.F.R. § 10.5(x).

<sup>4</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>5</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

<sup>6</sup> *See Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

Appellant stated that her feet hurt so badly that it was painful to walk, her legs constantly ached and her neck was painful. In a statement dated October 17, 2011, she stated that she was not born with deformed feet and that the lack of fatigue mats on concrete floors at the employing establishment caused repeated trauma on her ankles, feet and legs. Appellant has alleged that her accepted right foot condition has worsened or that she became totally disabled due to this condition.

The medical evidence addressing appellant's accepted right foot condition includes reports from Dr. Kinsella, Dr. Reed and Dr. Sehy. Dr. Kinsella reported appellant's complaints of bilateral foot numbness and sharp shooting pain from the sole of her foot to the back of her leg in 2010. Dr. Reed diagnosed bilateral Achilles tendinitis, bilateral plantar fasciitis, bilateral flat feet and neuropathy. Dr. Sehy diagnosed Achilles tendinitis bilaterally in November 2011. He stated that appellant never recovered from her original injury of Achilles tendinitis with probable partial tearing. Dr. Sehy stated that her diagnosis developed into tendinitis because the tendons never healed properly and because she had not undergone surgery.

Appellant's physicians did not opine that appellant was totally disabled due to her accepted foot condition. There is no evidence in the record that appellant has experienced a change in the nature and extent of her injury-related condition or a change in her light-duty assignment impacting her feet. The Board finds that she has not submitted the necessary medical evidence to meet her burden of proof in establishing a recurrence of disability due to her accepted right foot condition on or after February 17, 2011.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has failed to establish a recurrence of disability on February 17, 2011 due to her September 1, 2005 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 3, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 27, 2014  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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