

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MONA TERESA CAMMON and U.S. POSTAL SERVICE,
POST OFFICE, Los Angeles, Calif.

*Docket No. 96-386; Submitted on the Record;
Issued February 13, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof in establishing that she sustained a bilateral foot, ankle and leg condition in the performance of duty.

On November 22, 1994 appellant, then a 31-year-old mail carrier, filed a claim alleging a bilateral foot, ankle, and leg condition while walking and standing on a daily basis in the performance of duty. The record shows that appellant was intermittently unable to work from November 23, 1994 to March 24, 1995.¹ In a decision dated April 10, 1995, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that fact of injury had not been established. In an accompanying memorandum, the Office stated that the evidence of record was insufficient to establish that appellant actually experienced the claimed injury at the time, place and manner alleged. Appellant requested reconsideration.² By letter dated July 21, 1995, the Office referred appellant, along with the medical record and statement of accepted facts to Dr. D. William Zaayer, a Board-certified orthopedic surgeon for a second medical opinion evaluation because of *prima facie* evidence submitted on reconsideration. In a merit decision dated August 24, 1995, the Office modified its April 10, 1995 decision, in order to point out that the reason for the denial had been changed to appellant's failure to establish a causal relationship. In an accompanying memorandum, the Office found that the weight of the medical evidence presented in this case, rested with the medical opinion report of Dr. Zaayer,

¹ On March 30, 1989 appellant sustained a work-related lumbosacral strain which was accepted by the Office of Workers' Compensation Programs under claim number, A13-884888, on June 29, 1989. Appellant did not work for five years due to this injury. On April 4, 1994 the Office issued a decision terminating appellant's compensation because she had no medical condition or residual of the March 30, 1989 injury. On August 17, 1994 appellant returned to work as a mail carrier.

² In a letter dated July 19, 1995, the Office noted that appellant was now claiming a back condition which would not be addressed in the instant case. Appellant was therefore, advised to either file a recurrence of disability claim, Form CA-2a, or a new and separate occupational disease claim, Form CA-2, alleging the back condition.

rather than the medical opinion report of appellant's treating physician, Dr. Brad A. Katzman, a podiatrist.

The Board has fully reviewed the case record and finds that appellant has not met her burden of proof in establishing that she sustained a bilateral foot, ankle and leg condition in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing that 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 disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (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 employment 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 employment factors identified by claimant. 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 this issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

In an February 27, 1995 report, Dr. Katzman, appellant's attending podiatrist, stated that he had seen appellant in his office on November 23, 1994 with chief complaints of pain involving both feet. Dr. Katzman noted that various examinations and studies were performed, such as: vascular examination, neurological examination, orthopedic examination, gait evaluation, electromyogram (EMG) study, nerve conduction study, blood results, and radiological examination, in order to alleviate appellant's complaints of pain. Dr. Katzman

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Id.*

stated that his “impression at this time is consistent with a posterior tibial muscle strain and possible ischemic neuritis” and recommended that appellant have “a non-invasive vasculature study performed to rule out any compromise in the vasculature.” Appellant was prescribed medication and advised to have further evaluations for her neurological condition relating to her lower back syndrome. Additionally, in a report dated June 21, 1995, Dr. Katzman stated that appellant’s pain was quite progressive originating in the plantar fascia and radiating up the leg primarily on the left side. He went on to state that this diagnosis was consistent with early stages of tarsal tunnel syndrome and fascitis bilaterally, and opined that the condition was temporary at this time, but was aggravated and exacerbated by appellant’s constant standing and walking while a postal employee. Dr. Katzman also noted that his opinion was based on radiographic findings and previous EMG and nerve conduction studies. He moreover opined that appellant was disabled at this time, but felt that she would be able to return to modified work and possibly an alternative position at the post office. As Dr. Katzman’s medical report dated February 27, 1995 noted in the nerve conduction study performed on December 2, 1994 that tests “revealed normal left posterior and right posterior tibial nerve electroneurographic findings failing to demonstrate any slowing of significance through the tarsal tunnel bilaterally and failing to indicate any evidence of posterior tibial nerve entrapment in the tarsal tunnel bilaterally,” it differs greatly from Dr. Katzman’s medical report dated June 21, 1995, wherein he stated: “Diagnosis is consistent with early stages of tarsal tunnel syndrome and fascitis bilaterally,” but provided no explanation on how and why appellant’s condition was changed to indicate that it was now consistent with early stages of tarsal tunnel syndrome and fascitis. Thereby, making Dr. Katzman’s medical opinions of diminished probative value.

Thereafter, in an August 17, 1995 second medical opinion report, Dr. Zaayer, a Board-certified orthopedic surgeon stated that, in reviewing the data, there is no evidence of tarsal tunnel syndrome on a typical basis. He stated that appellant has too many areas of tenderness in the feet bilaterally, and virtually any place that is touched is said to hurt. Dr. Zaayer stated, however, that “many of the areas that are said to be the most painful are not consistently so when [appellant] is distracted. Considerable pressure and manipulation in the areas of primary tenderness is the tip of the heel primarily. The achilles tendon is also quite tender to palpation, and we could not really check the ankle reflexes adequately although a number could be given, it was done with a complaint of rather severe pain involving the achilles tendon. There appears to be nothing objective to support the problem said to be present in the feet. There was no redness, inflammation and no restricted motion.” He moreover opined that the diagnosis of tarsal tunnel syndrome has “definitely not been established by any method, and it is not presenting a typical way that one would expect a tarsal tunnel syndrome to present. Tarsal tunnel syndrome is an isolated type of diagnosis not associated with multiple other complaints in the foot, and certainly does not explain all of the multiple areas of tenderness in the foot. Dr. Zaayer also opined that the diagnosis of bilateral plantar fascitis was not necessarily established in this case because appellant’s feet are tender wherever you touch. He went on to say, that appellant’s feet actually looked quite good and the muscular development of the feet and calves appeared to be quite appropriate for her walking duties and carrying of loads up hills and up stairs. He also indicated that appellant had an excellent choice of shoes that she wore and that, if appellant did have a condition called peripheral ischemic neuritis, there was nothing that would help.

Since Dr. Katzman failed to provide an explanation as to how and why appellant's diagnosed condition is consistent with early stages of tarsal tunnel syndrome and fasciitis bilaterally, the Office properly gave special weight to the well-rationalized medical opinion of Dr. Zaayer dated August 17, 1995, which stated that appellant was not suffering from any medical condition or residual as a result of her duties of a mail carrier, that her feet looked quite good, and that the development of the feet and calves appeared to be quite appropriate for walking duties and carrying loads up hills and up stairs.

Accordingly, the decisions of the Office of Workers' Compensation Programs dated August 24 and April 10, 1995 are hereby affirmed.

Dated, Washington, D.C.
February 13, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member