

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EMMA L. SOULE and DEPARTMENT OF DEFENSE,
DEFENSE FINANCE & ACCOUNTING SERVICE, Norfolk, Va.

*Docket No. 97-43; Submitted on the Record;
Issued November 20, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof in establishing that she sustained an injury causally related to factors of her federal employment.

The Board has duly reviewed the case record and finds that appellant failed to meet her burden of proof.

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 the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the 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 factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and the identified factors. The belief of appellant that the condition was caused or aggravated by the identified factors is not sufficient to establish causal relation.¹

The facts in this case indicate that on May 1, 1995 appellant, then a 42-year-old accounts maintenance clerk, filed an occupational disease claim, alleging that feet, leg pain and heel spurs were caused by excessive standing at work. She stated that she came to this realization on April 12, 1995 when she was required to stand for a long time making copies. In accompanying statements, appellant indicated that her job duties from March 1994 forward consisted of standing on her feet most of the day filing, pulling documents and standing at the copy machine. She noted that the pain was continuous and had worsened and that it was aggravated by standing

¹ *Lourdes Harris*, 45 ECAB 545 (1994).

and walking. By letter dated May 31, 1995, the Office of Workers' Compensation Programs informed appellant of the type information needed to support her claim. By decision dated August 31, 1995, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish fact of injury. In the attached memorandum, the Office acknowledged that the "claimed events, incidents or exposures occurred at the times, places and in the manners alleged" but that appellant had provided insufficient medical evidence to establish that she sustained an employment injury.

In support of her claim appellant submitted a June 28, 1995 statement from Shirley A. Gray, a co-worker, who advised that appellant's job required more than 50 percent standing with 25 percent walking. In a June 28, 1995 statement, Annie Abuel, a coworker, indicated that she would occasionally see appellant at the copy machine and in the file room pulling vouchers.

The relevant medical evidence includes a January 30, 1995 report in which Dr. Debra J. Aleck, a podiatrist, advised that appellant could stand for only 30 minutes at a time and needed a desk job. In an April 20, 1995 attending physician's report, Dr. Aleck diagnosed bilateral heel spurs with plantar fasciitis, checked the "yes" box indicating that the condition was employment related and advised that appellant's only restriction was that she could stand/walk for only 15 minutes per hour. In a report dated July 19, 1995, she advised that standing worsened appellant's foot and leg conditions. In a July 31, 1995 history and physical report, Dr. Aleck reiterated her diagnoses and noted that appellant's job aggravated her condition "being that it is a weight-bearing position." In an appended note, she advised that appellant's working conditions contributed to her heel pain in both feet.

In the present case, there is no dispute that appellant was a federal employee and that she timely filed a claim for compensation benefits. However, the medical evidence is insufficient to establish that she sustained an employment-related injury because it does not contain a rationalized medical opinion explaining how her leg foot conditions were caused or aggravated by employment factors. While appellant submitted reports from Dr. Aleck, who advised that appellant's condition was employment related because it is a "weight-bearing position," the doctor provided no further explanation. Likewise, while Dr. Aleck checked the "yes" box on an Office form report, indicating that appellant's condition was employment related, without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.² Consequently, appellant has not submitted sufficient medical evidence to establish that her leg and foot conditions were causally related to factors of employment.³

The decision of the Office of Workers' Compensation Programs dated August 31, 1995 is hereby affirmed.

Dated, Washington, D.C.
November 20, 1998

² See *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

³ The Board notes that appellant submitted evidence to the Board with this appeal. The Board, however, cannot consider this evidence as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member