

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL D. CLARK and U.S. POSTAL SERVICE,
POST OFFICE, St. Louis, MO

*Docket No. 98-227; Submitted on the Record;
Issued December 8, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he developed chronic joint synovitis of the metatarsophalangeal joints.

The Board had duly reviewed the case on appeal and finds it not in posture for decision.

Appellant filed a claim on August 30, 1995 alleging that he developed chronic joint synovitis of the metatarsophalangeal joints due to factors of his federal employment. The Office of Workers' Compensation Programs denied appellant's claim by decision dated December 18, 1995, finding that he had not submitted sufficient medical evidence to establish a causal relationship between his employment duty of walking and his diagnosed condition. Appellant requested an oral hearing and by decision dated January 21, 1997, the hearing representative affirmed the Office's December 18, 1995 decision. He requested reconsideration and by decision dated July 31, 1997, the Office denied modification of its December 18, 1995 decision.

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 the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between

the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹

In a report dated March 3, 1997, Dr. Emil E. Finch, an osteopath, noted appellant's employment duties and found pain to palpitation. He diagnosed metatarsalgia and chronic joint synovitis secondary to employment based on complaints of pain. Dr. Finch failed to provide any medical reasoning in support of his opinion on the causal relationship between appellant's condition and his federal employment.

Dr. Jennifer L.K. Clark, a physician Board-certified in physical medicine and rehabilitation, completed a report on June 24, 1996 and noted that appellant was required to walk 16 miles a day. She performed a physical examination and noted appellant exhibited a markedly abnormal gait. Dr. Clark found that appellant's x-rays were normal. She diagnosed Morton's deformity, history of metatarsalgia, plantar fascial irritation and mild cavus foot. This report is not sufficient to meet appellant's burden of proof as Dr. Clark did not indicate that any currently diagnosed condition was causally related to appellant's employment duties. Instead Dr. Clark indicated that appellant should not walk 16 miles a day as this could result in a worsening of his condition. The Board has held that the possibility of a future injury does not constitute an injury under the Federal Employees' Compensation Act and therefore, no compensation can be paid for such a possibility.²

In support of his claim, appellant submitted several reports from Dr. Joseph D. Brown, a podiatrist. On August 6, 1995 Dr. Brown diagnosed chronic joint synovitis of the metatarsophalangeal joints. He stated that appellant's condition was a form of overuse syndrome related to extensive walking and noted that appellant walked 16 miles a day in the performance of his duties. In a report dated February 5, 1996, Dr. Brown diagnosed chronic joint capsulitis and metatarsalgia of both feet. He stated that appellant's condition was precipitated by excessive walking and that appellant was disabled.

On July 24, 1996 Dr. Brown again noted appellant's history of injury and diagnosed metatarsalgia and chronic joint synovitis. He defined these conditions as inflammation of the metatarsal head and lining of the joints, respectively. Dr. Brown stated that when this condition was present "each step, each contact with whatever surface walked on, whether it be pavement, concrete, grass, etc., jars and aggravates the already inflamed joints." He stated that this condition was not present prior to appellant's employment as a letter carrier and that the condition was precipitated by the excessive walking required to fulfill his job. Dr. Brown noted that there was no evidence of structural abnormality responsible and that this was not a preexisting condition.

In a report dated February 17, 1997, Dr. Brown stated that he believed that appellant developed a condition due to his employment duties. However, he stated that his diagnosis of joint synovitis or joint capsulitis was a diagnosis of exclusion. Dr. Brown noted that appellant

¹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

² *Gaetan F. Valenza*, 39 ECAB 1349, 1356 (1988).

had no radiological or objective findings and that his diagnoses were based on complaints of pain.

These reports contain a history of injury, diagnosis and an opinion that appellant's preexisting condition was caused by the accepted employment duties. While these reports are not sufficient to meet appellant's burden of proof, they do raise an uncontroverted inference of causal relation between appellant's accepted employment duties and his diagnosed condition and are sufficient to require the Office to undertake further development of appellant's claim.³

The decisions of the Office of Workers' Compensation Programs dated July 31 and January 21, 1997 are hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
December 8, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

³ *John J. Carlone*, 41 ECAB 354, 358-60 (1989).