

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PETRA M. MEADOWS and DEPARTMENT OF THE ARMY,
U.S. ARMY MISSILE COMMAND, REDSTONE ARSENAL, Ardmore, AL

*Docket No. 98-1140; Submitted on the Record;
Issued December 1, 1999*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish that she sustained an injury while in the performance of duty on February 10, 1997.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet her burden of proof to establish that she sustained an injury while in the performance of duty on February 10, 1997.

On February 24, 1997 appellant, then a 41-year-old office automation secretary, filed a traumatic injury claim (Form CA-1) alleging that on February 10, 1997 she sustained a stress fracture of her left foot when she ran into a step stool. Appellant first sought medical treatment on February 19, 1997 for her foot condition.

By letter dated May 22, 1997, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish her claim. The Office advised appellant to submit medical evidence supportive of her claim.

By decision dated July 9, 1997, the Office found the medical evidence of record insufficient to establish fact of injury. In an accompanying memorandum, the Office found the evidence of record sufficient to establish that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. The Office, however, found the medical evidence of record insufficient to establish that appellant sustained a medical condition caused by the employment incident.

Appellant requested a review of the written record accompanied by factual and medical evidence.

By decision dated December 3, 1997, an Office hearing representative affirmed the denial of appellant's claim. The hearing representative found that the only report which addressed causal relationship, an August 4, 1997 report from Dr. Jeffrey W. McKee, a podiatrist, was insufficient to establish appellant's claim.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing 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 limitations 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.² 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.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ In this case, the Office accepted that the February 10, 1997 incident occurred at the time, place and in the manner alleged. The Board finds that the evidence of record supports this incident.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁵ In the instant case, appellant has submitted no rationalized medical evidence establishing that she sustained a medical condition causally related to the February 10, 1997 employment incident.

In support of her claim, appellant submitted an August 4, 1997 medical report of Dr. McKee, which indicated that appellant began treatment for a stress fracture on March 19, 1997. Dr. McKee indicated that pain had been prior to treatment for several days and increasing. He stated "There is a possibility the injury she sustained on February 10, 1997 at her workplace where she kicked a stool could have caused discomfort and compensatory gait. This could have induced a stress fracture of the 2nd and 3rd metatarsals as well." A February 20, 1997 treatment note contained the notation that "Patient ran into stool at work. May have caused problem February 10, 1997." Dr. McKee's report and treatment note, however, are insufficient to establish that appellant's left foot condition was caused by the February 10, 1997 incident. Although Dr. McKee related appellant's left foot condition to work incident of February 10, 1997, he failed to provide any medical rationale explaining how or why appellant's stress fracture would be caused or contributed to by her employment. Dr. McKee's opinion that there was a "possibility" that the injury appellant sustained on February 10, 1997 at her workplace ... "could" have caused discomfort and compensatory gait which "could have induced" a stress

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ 20 C.F.R. § 10.110(a); *see John M. Tornello*, 35 ECAB 234 (1983).

fracture of the 2nd and 3rd metatarsals, is of diminished probative value as it is speculative in nature.⁶ Moreover, the record reveals that appellant has an underlying left foot condition, for which she underwent surgery on November 21, 1990 and again on October 6, 1996. Dr. McKee does not address whether appellant's underlying foot condition was adversely affected by the February 10, 1997 work incident.

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between her claimed condition and her employment.⁷ To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the employment factors identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination of appellant and her medical history, state whether the employment injury caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or her opinion. Appellant failed to submit such evidence in this case and, therefore, has failed to discharge her burden of proof.⁸

The decisions of the Office of Workers' Compensation Programs dated December 3 and July 9, 1997 are hereby affirmed.

Dated, Washington, D.C.
December 1, 1999

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁶ *Geraldine H. Johnson*, 44 ECAB 745 (1993).

⁷ *Donald W. Long*, 41 ECAB 142 (1989).

⁸ The Board notes that appellant submitted additional evidence with her appeal. The Board's jurisdiction is limited to reviewing evidence which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may submit this evidence to the Office, together with a formal request for reconsideration pursuant to 20 C.F.R. § 10.138(b).