

U. S. DEPARTMENT OF LABOR
Employees' Compensation Appeals Board

In the Matter of MIKE McCLENDON and DEPARTMENT OF THE AIR FORCE,
TINKER AIR FORCE BASE, Okla.

*Docket No. 97-2314; Submitted on the Record;
Issued May 11, 1999*

DECISION and ORDER

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

The issue is whether appellant's left heel condition is causally related to his employment.

On July 1, 1996 appellant filed a claim for a sore left heel which he attributed to standing on concrete on his job as a machine tool operator. He continued to work. Appellant's supervisor, in statements dated April 11, 1996, stated that appellant's job consisted of grinding turbine blades, that he stood during the 10 seconds it took to load a blade, sat during the 1 minute it took to cut the weld from the blade, was provided with a cushioned foot mat, and was observed sitting 75 percent of the day. He stated that his job entailed "standing, walking carrying 50 [pounds] of concrete 40 [hours] a week 19 [years] in shop area," and that the prolonged standing and walking on concrete had contributed to his heel spurs.

In a report dated April 8, 1996, Dr. Dale Hall, a podiatrist, stated that on December 28, 1995 he removed a total great toe nail and manufactured functional orthotics for acute-chronic heel pains. Dr. Hall noted that appellant continued to have pain in his left heel, prescribed medication for pain, and recommended that appellant lose weight and undergo a surgical procedure.

By decision dated August 28, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the basis that the evidence failed to demonstrate a causal relation between his condition and his employment.

Appellant requested reconsideration, and submitted a report from Dr. Hall dated September 10, 1996. He stated:

"I first saw this patient on December 28, 1995 for acute/chronic heel pain to the left foot. It had hurt acutely for approximately two weeks prior to seeing us in our clinic. The patient is employed at a facility where large volumes of concrete surfaces prevail, *i.e.*, a factory.

“After fabricating functional orthotics that patient noted continued pain in his left heel/fascia. The patient remains on Ibuprofen 800 [milligrams] [three times a day], since his last prescription of April 8, 1996. Between the orthotics and medication the patient continues to complain of heel pain in the left extremity. He is advised, again, that he lose weight to help the problem.

“In summary, this 42-year-old male continues to have left heel pain. This pain is related directly to impounding a 240-[pound] body into immovable concrete. Therefore, I would certainly relate a direct relationship of his job to this foot problem. Apparently, I did not directly relate this to your questions in my last writing.

“In answer to sound medical rationale opinion: on the examination of December 28, 1995, I stated that there is a pes cavus deformity/structure of both feet and there are exostoses at the calcaneal fascia junction, bilateral, with exuberance of the exostosis on the left. Therefore, to elaborate on this I would note there is greater strain at this point causing calcium buildup from plantar fascial strain.”

By decision dated June 16, 1997, the Office found that the additional evidence was not sufficient to warrant modification of its prior decision. The Office found that Dr. Hall’s September 10, 1996 report was of limited probative value, as it “reflects no awareness of the amount of time [appellant] spends on his feet or of the accommodations which have been made for [appellant].”

The Board finds that the case is not in posture for a decision, as further development of the evidence is necessary.

In its June 16, 1997 decision, the Office rejected appellant’s claim on the basis that the attending physician’s report appellant submitted, which supported causal relation, was based on an inaccurate history. The Office, however, did not determine what the accurate history of appellant’s employment conditions was before rejecting his claim.¹

Appellant indicated that his job entailed prolonged standing and walking on concrete for 19 years. Appellant’s supervisor noted that appellant was provided with a cushioned floor mat, and that he was observed sitting 75 percent of the time. The supervisor did not indicate, however, when, during appellant’s 19 years of employment as a machine tool operator, the cushioned mat and the chair were provided. In addition, the supervisor did not address the cited work factor of walking on concrete floors.

Because the Office denied the claim without making necessary findings of fact concerning appellant’s work conditions, the Board will remand the case so that the Office may properly exercise its adjudicatory function.² The Office should prepare a statement of accepted

¹ Where working conditions are alleged as a factor causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding the working conditions. *David Peisner*, 39 ECAB 1167 (1988).

² *Margaret S. Krzycki*, 43 ECAB 496 (1992).

facts,³ which it should submit to appellant's attending physician, Dr. Hall, for a reasoned opinion on causal relationship between the accepted work factors and appellant's left heel condition. After such further development as it deems necessary, the Office should issue an appropriate decision.

The decisions of the Office of Workers' Compensation Programs dated June 16, 1997 and August 28, 1996 are set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, D.C.
May 11, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member

³ "All issues requiring a medical opinion for resolution, except for those which do not depend on the facts of the claim, must have SOAFs [statements of accepted facts]." Federal (FECA) Procedure Manual, Part 2 -- Claims, *Statements of Accepted Facts*, Chapter 2.809.6a (June 1995).