

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RODNEY REID and U.S. POSTAL SERVICE,
POST OFFICE, Lexington, KY

*Docket No. 98-2085; Submitted on the Record;
Issued January 13, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained an aggravation of his preexisting ankle condition due to factors of his federal employment.

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

Appellant, a clerk, filed a claim on October 6, 1997 alleging that he had sustained an aggravation of his preexisting ankle condition due to factors of his federal employment including walking and standing. The Office of Workers' Compensation Programs denied his claim by decision dated February 17, 1998, finding that appellant failed to submit any medical evidence. Appellant requested reconsideration on March 9, 1998. By decision dated June 2, 1998, the Office denied modification of its February 17, 1998 decision finding that the medical evidence was not sufficient to meet appellant's 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 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 this case, appellant attributed the aggravation of his preexisting ankle condition to walking and standing in the performance of duty. The position description indicates that appellant is required to walk and stand for eight hours a day. Appellant also submitted medical evidence noting that he sustained a fracture of his right tibia and fibula in a motor vehicle accident in 1986. This fracture was repaired surgically with plates and screws in his ankle.

In a report dated May 22, 1998, Dr. Peter Hester, a surgeon, reviewed the medical records and stated that appellant had tenderness over the hardware site. He noted that appellant's hardware was prominent and that appellant required split thickness skin graft for coverage of a wound over the lateral malleolus following the initial surgery. Dr. Hester stated that appellant's hardware was palpable by his distal tibia and noted to be tender. He stated, "Decision to remove this patient's hardware was based primarily upon clinical exam[ination], which demonstrated prominent hardware and tenderness to palpation over the hardware. It is very possible that [appellant's] prolonged standing and walking activities required to perform his postal duties may have worsened his condition."

In a report dated October 16, 1997, Dr. Thomas Doers, an orthopedic surgeon, stated that appellant underwent removal of the hardware in the right ankle on January 22, 1997. He stated that prolonged standing and walking aggravated appellant's ankle condition necessitating the surgery.

These reports contain a history of injury and an opinion that appellant's preexisting condition was exacerbated by the accepted employment factors. 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 factors of prolonged walking and standing and an exacerbation of his preexisting ankle condition and are sufficient to require the Office to undertake further development of appellant's claim.²

On remand, the Office should refer appellant, his medical records and a statement of accepted factors to an appropriate physician to determine whether the accepted employment duties of prolonged walking and standing aggravated his preexisting ankle condition. After this and such other development as the Office deems necessary, the Office should issue an appropriate decision.

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

² *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

The decisions of the Office of Workers' Compensation Programs dated June 2 and February 17, 1998 are hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
January 13, 2000

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member