

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH J. HUSKISSON and TENNESSEE VALLEY AUTHORITY,
PARADISE FOSSIL PLANT, Drakesboro, KY

*Docket No. 99-1263; Submitted on the Record;
Issued July 3, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant established that he sustained a left foot condition causally related to factors of his federal employment.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not established that he sustained an employment-related left foot condition.

On April 25, 1997 appellant, then a 62-year-old maintenance mechanic and boilermaker, filed a claim for occupational disease contending that he developed a painful left foot condition as a result of having spent 20 years walking and standing on concrete floors in the course of his federal employment. He did not stop work. Following further development, by decision dated August 11, 1997, the Office of Workers' Compensation Programs denied the claim on the grounds that appellant had not established fact of injury. He timely requested a review of the written record and submitted additional medical evidence in support of his claim. In a February 9, 1998 decision, an Office hearing representative found that the medical evidence submitted by appellant was sufficient to warrant further medical development of the claim and remanded the case to the Office for a second opinion evaluation. On April 1, 1998 the Office referred appellant, along with the medical record, a statement of accepted facts and a set of questions to Dr. Charles A. Barlow, a Board-certified orthopedic surgeon. In a decision dated May 13, 1998, the Office denied appellant's claim. He timely requested an oral hearing, which was held on November 19, 1998. By decision dated February 1, 1999, an Office hearing representative found the medical evidence insufficient to establish that appellant sustained a left foot condition causally related to his federal employment. The instant appeal follows.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim² including the fact that the individual is an "employee of the United States" within the meaning of the Act,³ that the claim was timely filed within the applicable time limitation period of the Act,⁴ 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.⁵ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶ However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.⁷

Causal relationship is a medical issue⁸ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹ Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief of the claimant that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

The relevant medical evidence includes three progress notes from Dr. Frank L. Buono, a treating physician. In his initial report dated June 12, 1997, he documented the history of appellant's condition, noting that beginning on March 27, 1997, appellant began experiencing regular, increasing pain in his left os calcis. Dr. Buono further stated: "[Appellant] works on concrete and this is attributed to that." Following a physical examination and x-rays, he diagnosed a small os calcis spur on the plantar aspect of appellant's left heel. Dr. Buono prescribed medication and heel pads and scheduled a follow-up appointment. In his progress

¹ 5 U.S.C. §§ 8101-8193.

² See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.115.

³ See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

⁴ 5 U.S.C. § 8122.

⁵ See *Melinda C. Epperly*, 45 ECAB 196 (1993).

⁶ See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ See *Robert A. Gregory*, 40 ECAB 478 (1989).

⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁹ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 6.

¹⁰ *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (1982).

note dated June 19, 1997, Dr. Buono stated that appellant was doing well and that his os calcis pain was now gone as a result of medication and heel padding. He noted that appellant might have mild discomfort, but nothing of significance. In Dr. Buono's final report of record dated July 22, 1997, he noted that appellant continued to do quite well with the medication and heel pads, experiencing only mild discomfort after long periods of sitting. He discharged appellant from follow-up care, having first explained to appellant that a surgical excision of the heel spur might be required if his symptoms recurred.

In an April 21, 1998 medical report, Dr. Barlow, a Board-certified orthopedic surgeon who provided a second opinion for the Office, noted appellant's history of foot pain, reviewed the medical records and provided his findings on examination. In an April 23, 1998 report summarizing his findings, he stated:

“[Appellant] has retired and his current condition is greatly improved. He has no history of trauma and the heel spur is not related to factors of his employment. [Appellant's] diagnosis is plantar fasciitis with associated os calcis osteophyte.

“This symptom complex arises from minor foot imbalance and associated inflammation of the attachment of the intrinsic musculature on the plantar aspect of the os calcis and is not related to acute or repetitive trauma.

“We do not suggest a treatment plan for [appellant] as he is almost asymptomatic presently. [He] has no permanent partial impairment in his left foot.”

The Board finds that appellant has not established that his diagnosed left foot condition is causally related to his federal employment as the record contains no rationalized medical evidence that relates appellant's condition to any employment factors. With respect to Dr. Buono's statement that appellant “works on concrete and this [heel spur] is attributed to that,” it is unclear whether this is Dr. Buono's medical conclusion or whether the physician is simply repeating appellant's complaint. Even assuming that this is Dr. Buono's medical opinion, the physician's reports are not sufficient to meet appellant's burden of proof, as they contain no medical rationale explaining how the concrete flooring caused or contributed to appellant's diagnosed heel spur.¹¹ A medical opinion was obtained from Dr. Barlow who negated a causal relationship between appellant's left foot condition and factors of his employment.

¹¹ See Gary L. Fowler, *supra* note 9.

The decisions of the Office of Workers' Compensation Programs dated February 1, 1999 and May 13, 1998 are hereby affirmed.

Dated, Washington, D.C.
July 3, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member