

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of IRENA L. COLLOSI and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Baltimore, MD

*Docket No. 98-1416; Submitted on the Record;  
Issued March 3, 2000*

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DECISION and ORDER

Before GEORGE E. RIVERS, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant sustained any disability or medical condition on or after December 5, 1997 causally related to her July 9, 1997 employment injury.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined that appellant had no disability or medical condition on or after December 5, 1997 causally related to her July 9, 1997 employment injury.

An employee who claims benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim.<sup>2</sup> The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.<sup>3</sup>

On July 9, 1997 appellant, then a 44-year-old distribution clerk, sustained a contusion of the left toe in the performance of duty.

On December 26, 1997 appellant, filed a claim for compensation benefits for continuing disability on and after December 5, 1997.

By decision dated March 6, 1998, the Office denied appellant's claim for compensation benefits after December 5, 1997 on the grounds that the evidence of record failed to establish

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Ruthie M. Evans*, 41 ECAB 416, 423-24 (1990); *Donald R. Vanlehn*, 40 ECAB 1237-38 (1989).

<sup>3</sup> *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

any continuing disability or medical condition causally related to her July 9, 1997 employment injury.<sup>4</sup>

On May 13, 1997 prior to the July 9, 1997 employment injury, Dr. Mark S. Myerson, a surgeon, had performed a surgical procedure on appellant's left foot consisting of a dorsal closing wedge osteotomy of the left first metatarsal base in order to correct the left sesamoiditis and cavus of the left foot.

In a disability certificate dated July 10, 1997, Dr. Myerson stated, "there was no damage to the foot following the most recent event of someone stepping on her foot."

In notes dated November 4, 1997, Dr. David Cohen, a podiatrist, provided findings on examination and stated that by December 1, 1997 appellant would be able to return to work full time without restrictions.

In clinical notes dated December 2, 1997, Dr. Cohen related appellant's complaint that she was bothered by her left foot. He provided findings on examination and noted that appellant complained of pain at sites where no obvious physical findings could be found to validate her complaints. Dr. Cohen stated there was a strong possibility that appellant's problems were complicated by psychologically-related factors.

In notes dated December 16, 1997, Dr. Cohen noted that x-rays of the left great toe revealed no findings of any significance and that a December 13, 1997 bone scan revealed only some delayed healing at the osteotomy (surgical) site. He advised appellant to remain off work until further notice. However, as Dr. Cohen indicated that the cause of appellant's condition was delayed healing from her nonwork-related surgery, these notes do not support her claim for work-related disability commencing on December 5, 1997.

In a report dated January 22, 1998, Dr. Cohen stated that he saw appellant on January 17, 1998 at which time she was complaining of significant discomfort in the first metatarsal phalangeal joint and at the base of the great toe, but that she presented with no significant objective findings. He stated that he was unable to determine the cause of appellant's continued pain. As Dr. Cohen did not opine that the condition was causally related to appellant's July 9, 1997 employment injury, this report is not sufficient to discharge appellant's burden of proof.

In a disability certificate dated February 9, 1998, Dr. Richard S. Schlesinger, a physiatrist, indicated that appellant was disabled from work commencing on January 26, 1998 and continuing "indefinitely" due to double crush syndrome on the left side, tarsal tunnel syndrome and left radiculopathy. However, as he did not opine that the condition was related to the July 9, 1997 employment injury, this disability certificate does not support appellant's claim of work-related disability commencing on December 5, 1997.

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<sup>4</sup> The Board notes that this case record contains documents belonging to another claimant. Upon return of the case record, these documents should be placed in this correct file. The Board also notes that the case record contains evidence submitted subsequent to issuance of the Office's March 6, 1998 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; see 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

In notes dated March 5, 1998, Dr. Thompson, an Office medical adviser, noted that tarsal tunnel syndrome was due to entrapment neuropathy of the posterior tibial nerve in the medial ankle, not the foot. He indicated that there was no anatomic relationship between tarsal tunnel syndrome and appellant's employment-related toe injury. Therefore, this report does not support appellant's claim for disability on December 5, 1997.

Because appellant failed to provide any rationalized medical evidence showing that her claimed disability on and after December 5, 1997 was causally related to her July 9, 1997 employment injury, she did not meet her burden of proof.

The March 6, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

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

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member