

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MATTIE M. ROBERSON and DEPARTMENT OF THE ARMY,  
RED RIVER ARMY DEPOT, Texarkana, TX

*Docket No. 00-178; Submitted on the Record;  
Issued April 10, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant has established that she has any continuing disability due to her accepted employment injury.

On March 22, 1988 appellant, then a 39-year-old vehicle mechanic, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that she injured her right foot when a work buggy turned over and hit her right foot. The Office of Workers' Compensation Programs accepted the claim for contusion of the right foot and was placed on the automatic rolls for temporary total disability by letter dated February 8, 1991.

In a work restriction evaluation (Form OWCP-5) dated June 3, 1994, Dr. Barry M. Green, an attending Board-certified orthopedic surgeon, diagnosed synovitis of the ankle and indicated that appellant was capable of working 10 hours per day effective January 1994 with restrictions.

On November 21, 1994 the Office issued proposed notice of termination of compensation on the basis that appellant had no residuals from her accepted March 22, 1988 employment injury.

By decision dated January 9, 1995, the Office finalized the termination of appellant's compensation based upon Dr. Green's report that appellant has no residuals from her accepted employment injury.

By letter dated January 29, 1995, appellant requested reconsideration and submitted a January 29, 1995 report by Dr. Green in support of her request. In progress notes dated January 25, 1995, Dr. Green diagnosed metatarsalgia, synovitis and contractures of her right ankle joint. As to appellant's range of motion, the physician noted "on the right she has 30 degrees of eversion, 20 degrees of inversion, 45 degrees of plantar flexion and she cannot reach neutral to go into dorsiflexion. She lacks 10 degrees to neutral from plantar flexion."

In a report dated July 17, 1995, Dr. Green opined that “the condition described under diagnosis is certainly a result of the March 22, 1988 injury, in which a buggy turned over, injuring [appellant’s] right lower extremity.”

Appellant again requested reconsideration by letter dated July 28, 1995.

By merit decision dated August 2, 1995, the Office denied appellant’s request for modification of its prior decision.

By letter dated August 14, 1995, appellant requested reconsideration and submitted an August 11, 1995 report by Dr. Green in support of her request. In his August 11, 1995 report, Dr. Green opined that appellant’s synovitis was due to her accepted employment injury and that being on her feet, walking great distances causes her symptoms to flare-up.

By merit decision dated September 7, 1995, the Office denied appellant’s request for modification.

On March 10, 1996 the Board granted appellant’s request to dismiss her appeal.<sup>1</sup>

In an order dated April 11, 1996, the Office denied appellant’s request for reconsideration on the merits.

By letters dated August 2 and September 9, 1996, appellant’s counsel requested reconsideration and submitted a July 24, 1996 report from Dr. Green in support of her request. In his July 24, 1996 report, Dr. Green opined:

“In my report on January 25, 1995, I did not have objective evidence for this patient’s injury. Although [appellant] had a normal bone scan, she had x-rays which showed traumatic calcification in the region of the cuboid joint on her right foot. This is in the area she injured in March 1988. She has also been unable to reach neutral position on dorsiflexion, therefore she has a 20 degree loss of motion of dorsiflexion to her right foot.”

In a February 18, 1999 order, the Board set aside the April 11, 1996 Office decision and remanded for reconstruction of the record as the record was incomplete.<sup>2</sup>

In the decision dated July 2, 1999, the Office accepted appellant’s tenosynovitis was related to her accepted employment injury and modified its prior decision to reinstate medical benefits as she had continuing residuals due to her accepted employment injury. The Office, however, affirmed its prior decisions denial of any continuing wage-loss compensation.

The Board finds that appellant has not established that she has any continuing disability due to her accepted employment injury.

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<sup>1</sup> Docket No. 95-3063 (issued March 19, 1996).

<sup>2</sup> Docket No. 97-1430 (issued February 18, 1999).

When an employee claims a continuing disability causally related to an accepted employment injury, he or she has the burden of establishing by the weight of the reliable, probative and substantial medical evidence that the claimed recurrence of disability is causally related to the accepted injury. As part of this burden, appellant must submit rationalized medical evidence based on a complete and accurate factual and medical background showing causal relationship.<sup>3</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>4</sup> must be one of reasonable medical certainty<sup>5</sup> 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.<sup>6</sup> An award of compensation may not be made on the basis of surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.<sup>7</sup>

As applied to this case, in order to establish causal relationship, appellant must submit sufficient rationalized medical evidence explaining how her medical condition was causally related to her accepted injury.

Appellant, in support of her claim, submitted various reports from Dr. Green to support her contention that she was totally disabled due to her accepted employment injury. However, none of the reports submitted by her are sufficient to meet appellant's burden of proof as she has not provided any opinion as to whether appellant was totally disabled due to her March 22, 1988 employment injury. Dr. Green's reports diagnosed tenosynovitis of the right ankle which Office subsequently accepted and approved payment of medical benefits to appellant. Furthermore, Dr. Green in a June 3, 1994 Form OWCP-5 concluded that appellant was capable of working ten hours per day.

Consequently, appellant has not established that she was totally disabled due to her accepted employment injury, as she submitted insufficient medical evidence to support that she was totally disabled.

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<sup>3</sup> See *Armando Colon*, 41 ECAB 563 (1990).

<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>6</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>7</sup> *Ausberto Guzman*, 25 ECAB 362 (1974).

The decision of the Office of Workers' Compensation Programs dated July 2, 1999 is hereby affirmed.

Dated, Washington, DC  
April 10, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member