

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH WATSON and U.S. POSTAL SERVICE,
POST OFFICE, Indianapolis, IN

*Docket No. 00-1895; Submitted on the Record;
Issued April 19, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof in establishing that he sustained a right ankle injury causally related to his federal employment.

On December 20, 1999 appellant, then a 50-year-old postal clerk, filed a notice of occupational disease, claiming that he became aware in June 1996 that the pushing and pulling of equipment and continuous walking of his job caused severe pain and bone splintering in his right ankle. Appellant submitted medical reports diagnosing him with "severe degenerative arthritis" dated November 23, 1999 and "severe arthritis of both ankles" dated December 17, 1999. Appellant also submitted a report from Dr. Mark J. DiLella, dated August 12, 1999, stating that he treated appellant for a flare-up of right ankle pain which occurred on August 8, 1999. Appellant had presented x-rays to Dr. DiLella, which he examined and noted that they demonstrated "significant degenerative changes affecting the tibiotalar joint." Appellant underwent arthroscopy of the right ankle on August 17, 1999.

By letter dated January 28, 2000, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical information.¹

Appellant submitted a treatment note from Dr. Merrill M. Wesemann dated August 19, 1996, in which he stated that appellant may return to work on August 26, 1996. Appellant also submitted several consecutive notes from Dr. Wesemann indicating that he was treating appellant for arthritis and appellant should be exempt from working overtime until

¹ Appellant submitted a copy of a traumatic injury claim he filed on July 21, 1999 for a lower back injury, as well as accompanying medical reports and light-duty assignments surrounding this claim. Appellant also submitted medical reports and treatment notes dating back to the 1970's, indicating that he suffered fractures of both lower extremities in 1970 due to a motorcycle accident, and since that time has had problems in his legs and both ankles.

November 7, 1999. However, in a note dated July 27, 1999, the treating physician² indicated, “L SI strain-resolved,” and stated that appellant was able to return to work with no limitations.³

In a treatment note from Dr. DiLella dated September 1, 1999, he indicated that appellant may return to light-duty work on September 8, 1999. In attending physician’s reports from Dr. Wesemann dated January 7 and March 3, 2000, he indicated “degeneration of bones in r[ight] ankle” in his clinical findings.

By decision dated March 22, 2000, the Office denied appellant’s claim on the grounds that he did not establish a causal connection between his right ankle condition and his employment.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a right ankle injury causally related to his federal employment.

An employee seeking benefits under the Federal Employees’ Compensation Act⁴ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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 the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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.⁷

In this case, appellant has submitted medical evidence to the Office which stated several diagnoses related to appellant’s right ankle condition, yet has not submitted the medical evidence necessary to establish causal relationship.

² Physician’s signature is illegible.

³ The Office notes that this note discusses appellant’s left ankle, not his right.

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁷ *Vicky L. Hannis*, 48 ECAB 538 (1997).

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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.⁸ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁹

Most of the medical evidence of record does not address the issue of causal relationship. Only the report from Dr. DiLella dated August 12, 1999, attempted to address causal relationship between appellant's right ankle condition and his employment, yet ultimately failed.¹⁰ In his report, Dr. DiLella stated that he treated appellant for a flare-up of right ankle pain which occurred on August 8, 1999, not June 1996, as appellant indicated earlier. He also discussed the history of appellant's ankle discomfort over the years. Regarding appellant's work, Dr. DiLella noted:

"He [appellant] admits that for the most part, his right ankle symptoms are quite tolerable, and he continues daily activities, both at work and at home. He typically notes swelling about the ankle towards the end of the day at work. He usually cannot get through the whole workday without any symptoms."

Dr. DiLella also provided a diagnosis of "probable severe post-traumatic arthrosis of the right ankle joint." Even though Dr. DiLella provided a diagnosis and mentioned appellant's continuous discomfort at work, he did not provide an opinion as to the cause of appellant's medical condition, nor did he in any way relate appellant's condition to factors of his employment. The medical evidence of record diagnoses appellant with right ankle degeneration yet offers no medical rationale explaining the relationship between the diagnosed condition and appellant's employment.

⁸ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁹ *James Mack*, 43 ECAB 321 (1991).

¹⁰ Appellant submitted a report from Dr. DiLella dated April 5, 2000. The report was received by the Office on April 24, 2000 but may not be considered by the Board since it was received after the Office's final decision. The review of a case shall be limited to the evidence in the case record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

The March 22, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 19, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member