

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT JOHNSON and U.S. POSTAL SERVICE,
POST OFFICE, Columbus, OH

*Docket No. 00-1650; Submitted on the Record;
Issued March 26, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant established that he sustained a right foot condition in the performance of duty.

On August 10, 1999 appellant, then a 53-year-old letter carrier, filed a notice of occupational disease and claim for compensation alleging that he suffered from foot pain and discomfort, beginning in 1995, due to constant walking. He also indicated that he had foot surgery in 1995, and that walking had aggravated his condition. Appellant apparently has not stopped work.

In a letter dated October 4, 1999, the Office of Workers' Compensation Programs advised appellant of the factual and medical evidence required to establish his claim.

In a decision dated November 5, 1999, the Office denied compensation, noting that appellant failed to submit any evidence to show fact of injury.

On November 10, 1999 appellant requested reconsideration.

In conjunction with his reconsideration request, appellant submitted an August 10, 1999 report from Dr. Leonard R. Janis, a Board-certified podiatrist. Dr. Janis noted that appellant was examined in his office on July 26, 1999 with complaints of chronic right foot pain, difficulty walking and wearing shoes comfortably. He noted physical findings and a bony pathology on x-rays that was consistent with degenerative joint changes. Dr. Janis also indicated that appellant had been seen in 1996 for foot-related problems. He recommended that appellant undergo outpatient surgery consisting of "a fusion navicular cuneiform articulation, resection accessory talar bone spur and osteotomy second and third metatarsals of the right foot."¹

¹ Appellant's outpatient surgery was subsequently performed on August 11, 1999 and a copy of the operative report is of record.

In a treatment note dated October 12, 1999, Dr. Janis noted that appellant was seen “status post fusion navicular cuneiform joint with allograft, open arthrotomy with resection of talar exostosis and osteotomy second and third metatarsals, all of the right foot on August 11, 1999.” The physician indicated that appellant’s x-rays confirmed excellent bony healing that he was ready for physical therapy.

In a January 26, 2000 decision, the Office modified the prior November 5, 1999 decision to reflect that appellant sustained a right foot condition. The Office, however, also held that the medical evidence was insufficient to establish that appellant’s injury was causally related to factors of his employment.

The Board finds that appellant has failed to establish that he sustained a right foot condition causally related to factors of his employment.

An employee seeking benefits under the Federal Employees’ Compensation Act² 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 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.³ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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 a 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 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.⁵

The medical evidence required to establish causation, generally, 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

² 5 U.S.C. §§ 8101-8193; *see* 20 C.F.R. §§ 10.115, 10.116 (1999).

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton* 40 ECAB 1143 (1989).

⁴ *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Woodhams*, *supra* note 4.

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

In the instant case, appellant did not submit a rationalized medical opinion stating that his right foot condition was caused by walking in the performance of duty as he has alleged. Although appellant has undergone right foot surgery, the report and treatment note by Dr. Janis does not discuss the causal relationship, if any, between appellant's diagnosed condition and his federal employment.

Neither the fact that appellant's right foot condition became apparent during a period of employment, nor the belief of appellant that his condition was caused or aggravated by employment conditions, is sufficient to establish causal relationship.⁷ Inasmuch as the medical evidence of record fails to address the etiology of appellant's alleged injury, the Office properly denied his claim for compensation.

The decision of the Office of Workers' Compensation Programs dated January 26, 2000 is hereby affirmed.

Dated, Washington, DC
March 26, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Id.*

⁷ *Woodhams, supra* note 4.