

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RUTH JOHNSON and DEPARTMENT OF THE NAVY,
NAVAL MEDICAL CENTER, San Diego, CA

*Docket No. 00-1525; Submitted on the Record;
Issued May 10, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant established that her current left foot condition is causally related to her accepted employment injury.

Appellant, a 54-year-old licensed vocational nurse, filed a notice of traumatic injury on May 29, 1998 alleging that on August 27, 1997 she injured her left ankle on a metal table, resulting in a bruise on her left foot and a swollen ankle. The Office of Workers' Compensation Programs accepted appellant's claim for left ankle contusion.

On July 1, 1998 appellant filed a notice of recurrence of disability alleging that she stopped work on April 10, 1998 due to pain and swelling in her left foot. By decision dated November 25, 1998, the Office denied appellant's claim for failure to establish causal relationship. Appellant requested reconsideration on November 23, 1999. By decision dated December 27, 1999, the Office denied modification of the November 25, 1998 decision finding that appellant had not established a causal relationship between her traumatic ankle injury of August 27, 1997 and her current left foot condition.¹

The Board finds that appellant has failed to meet her burden of proof.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her recurrence of disability commencing April 10, 1998 and her August 27, 1997 employment injury.² This burden includes that necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate

¹ Following the Office's December 27, 1999 decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board will not review it for the first time on appeal. 20 C.F.R. § 501.2(c).

² *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.³

In this case, appellant initially alleged that she injured her left ankle by striking it on a metal table on August 27, 1997. The records from the employing establishment health clinic indicate that on August 26, 1997 appellant had slight edema in the left ankle. On August 27, 1997 the notes indicate that appellant had hematoma over the fourth and fifth metatarsals on the left foot and the physician, Dr. Fred Chasan, a Board-certified family practitioner, recommended an x-ray.

There are no further medical reports until March 10, 1998 when Dr. Julia Rodriguez, a family practitioner, diagnosed left ankle contusion. Appellant then sought treatment from Dr. Antra Priede, Board-certified in preventative medicine. In her April 23, 1998 report, Dr. Priede noted appellant's history of injury and performed a physical examination. She diagnosed plantar fasciitis and stated that if appellant had pain in her foot, she probably altered her gait, which could have caused the plantar fasciitis. Dr. Priede concluded, "There is no intervening history of trauma or other activity known to me to create plantar fasciitis. She does walk eight hours a day at work. I will conclude that the proximate cause of the plantar fasciitis is the original trauma to the left ankle of August 2[7], 1997."

In this report, Dr. Priede opined that, due to a change in gait, appellant developed plantar fasciitis as a result of her employment injury. In a report dated August 28, 1998, he diagnosed left ankle contusion with bone cyst, reflex sympathetic dystrophy and right foot swelling with pain. However, she did not offer an opinion on the causal relationship between appellant's additional condition and her accepted employment injury.

The Office requested a supplemental report from Dr. Priede. On October 23, 1998 she stated that the diagnosis of reflex sympathetic dystrophy was based on appellant's subjective pain and soft tissue sensitivity. She stated that reflex sympathetic dystrophy could develop following trauma to an extremity. Dr. Priede attributed appellant's bone cyst to her August 1997 trauma and noted that at one time she appeared to have findings of plantar fasciitis.

This report indicates that Dr. Priede no longer supported appellant's diagnosis of plantar fasciitis. Dr. Priede also failed to provide a clear opinion on the causal relationship between appellant's other diagnosed conditions and her employment injury. Therefore, Dr. Priede's reports are insufficient to meet appellant's burden of proof.

On June 4, 1998 Dr. William O'Hara, Board-certified in preventative medicine, noted appellant's history of injury and diagnosed an ankle contusion with possible causalgia. He stated that appellant's symptoms were attributable to her August 1997 employment injury. This report is insufficient to establish an additional medical condition resulting from appellant's employment injury because Dr. O'Hara did not provide a definitive diagnosis or any medical rationale in support of his opinion.

³ See *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

Dr. Eric Greenburg, a Board-certified internist, completed a report on July 5, 1998 and diagnosed sympathetically-maintained flash reflex sympathetic dystrophy or a localized cyst with swelling. He did not offer an opinion on the causal relationship between appellant's diagnosed conditions and her employment injury. Subsequently, he diagnosed "probable sympathetically maintained pain syndrome," reflex sympathetic dystrophy, related to an injury in August 1997.

Dr. Linda Nienstedt, a neurologist, examined appellant on September 24, 1998 and found no electrophysiologic evidence suggestive of radiculopathy or neuropathy involving the left lower leg. She stated that the etiology of appellant's present complaint was not completely clear to her, although the symptoms were suggestive of reflex sympathetic dystrophy.

In a report dated October 29, 1998, Dr. Alexandra E. Page, an orthopedic surgeon, examined appellant and reviewed x-rays. Dr. Page stated: "It is very difficult to assess [appellant]. Given her original trauma, the symptoms she is describing are absolutely inexplicable." Dr. Page added that appellant had an osteochondral defect and a degenerative cyst in the ankle, but that there was no relationship between this condition and appellant's employment injury. This report negates a causal relationship between appellant's bone cyst and symptoms and her employment injury.

On December 15, 1998 Dr. Priede performed a left ankle arthroscopy and diagnosed degenerative joint disease with distal tibial cyst.

On December 22, 1998 Dr. Page noted that appellant's cyst was not degenerative. In a December 30, 1998 report, she noted appellant's complaints of increasing pain and stated that the etiology was unclear. Dr. Page stated that there was a remote chance of reflex sympathetic dystrophy.

In a report dated September 7, 1999, Dr. Page stated that appellant continued to have intractable pain and that she remained a diagnostic dilemma.

In a report dated May 5, 1999, Dr. Louis Rosen, an osteopath, diagnosed residual reflex sympathetic dystrophy of the left foot. He stated:

"Please note at this point I feel it is not unreasonable to conclude that her present condition is related to her left hindfoot work injury. As noted above, the patient did not have any problem with her foot and ankle prior to this work injury.... Certainly the medical literature describes reflex sympathetic dystrophy as a sequela to a whole range of trauma from mild to severe extremity injuries."

The reports of Drs. Greenburg and Rosen support appellant's claim for reflex sympathetic dystrophy causally related to her employment injury. However, neither physician provided medical rationale in support of their opinions. This description of how and why appellant's current condition is related to her employment injury is necessary given the variety of diagnoses provided, the disagreement regarding this diagnosis from Dr. Page and the length of time between appellant's employment injury in August 1997 and the date that she sought additional medical treatment in March 1998. For these reasons, the Board finds that appellant has failed to meet her burden of proof.

The December 27, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 10, 2001

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member