U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NITA HOFFMAN and U.S. POSTAL SERVICE,
CUMBERLAND POST OFFICE, Saginaw, MI

Docket No. 02-121; Submitted on the Record;
Issued June 17, 2002

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained a recurrence of disability on and after January 25, 2000, causally related to accepted January 7, 1991 bilateral ligamentous foot strains and an October 21, 1996 right ankle sprain.

The Office of Workers' Compensation Programs accepted that appellant, then a 43-year-old letter carrier, sustained bilateral ligamentous foot strains in the performance of duty attributable to prolonged standing and walking. Appellant was placed on light duty and did not carry mail after August 24, 1991. The Office also accepted an October 21, 1996 right ankle sprain sustained when appellant tripped and fell on equipment.

After the October 21, 1996 right ankle sprain, appellant sought treatment from Dr. Anthony de Bari, a Board-certified orthopedic surgeon. In an April 24, 1997 report, Dr. de Bari noted that the plantar aspect of appellant's right foot remained painful as before the ankle sprain, despite physical therapy from December 1996 to April 1997.[1]

In a February 24, 1997 report, Dr. Balakrishna Jagdale, a Board-certified orthopedic surgeon and second opinion physician, opined that appellant had not fully recovered from the October 21, 1996 right ankle sprain. On examination, Dr. Jagdale found a swollen right foot, planovalgus and hallux rigidus deformities bilaterally, limited motion in the right foot and a right-sided limp. He diagnosed "[b]ilateral painful feet" and "[r]ule out reflex sympathetic dystrophy right foot." Dr. Jagdale stated that appellant's objective signs warranted a bone scan to rule out reflex sympathetic dystrophy syndrome. He also recommended light-duty work with minimal standing and walking.

[1] A February 16, 1997 magnetic resonance imaging (MRI) scan of the right ankle showed a "minimal amount of fluid in the soft tissues adjacent to the talus laterally … most likely post traumatic in etiology."

In an April 10, 1998 report, Dr. de Bari stated that "some people develop a poor tolerance to pain related to an injury, which I think is causing her continued pain."[2]

In a May 29, 1998 report, Dr. Jagdale opined that the "condition is work related. Although the injury was trivial, it has resulted in disability. These restrictions of no prolonged standing or walking are needed for three months."

In a December 7, 1999 report, Dr. de Bari found appellant "disabled from… putting any pressure on her feet … related to her problems starting in 1991 when she was a letter carrier." He recommended a sedentary job. Dr. de Bari diagnosed chronic pain syndrome and possible reflex sympathetic dystrophy syndrome. He submitted periodic reports through March 20, 2000 reiterating these diagnoses and limitations.

In February 2 and 10, 2000 reports, Dr. Edward B. Trachtman, a Board-certified physiatrist performing a fitness-for-duty examination for the employing establishment, noted a "mildly decreased arch" bilaterally, unrelated to work factors. Dr. Trachtman stated that he did not find "anything in this patient," with no need for restrictions or follow up.

Appellant stopped work on January 26, 2000 when advised by the employing establishment that her light-duty restrictions could no longer be accommodated.

On April 5, 2000 appellant filed a claim for a recurrence of disability commencing January 25, 2000. She reported "severe pain and swelling" in both feet due to prolonged walking and standing, persisting since the January 7, 1991 injury.

In a May 12, 2000 report, Dr. de Bari stated that he had "absolutely no idea why [appellant] ha[d] any pain in her feet" as he was "unable to find any objective evidence … to her pain …." He referred appellant to Dr. Andrew Cohen, a Board-certified podiatrist.

In a June 28, 2000 report, Dr. Cohen noted that appellant's symptoms were unchanged since 1991, and appeared "to be real." He opined that the preexisting conditions of severe metatarsus planus varus (bunions) and plano valgus deformities could "contribute to [appellant's] complaints and her inability to perform her previous job…." Dr. Cohen opined that appellant could not perform her preinjury position due to a combination of work requirements and "the condition of her feet." In periodic reports from March 23 to September 13, 2000, Dr. Cohen ruled out reflex sympathetic dystrophy syndrome, diagnosed tarsal tunnel syndrome and restricted appellant to sedentary duty.

By decision dated July 19, 2000, the Office denied appellant's claim for a recurrence of disability commencing January 26, 2000 on the grounds that appellant submitted insufficient rationalized medical evidence establishing a pathophysiologic causal relationship between factors of her federal employment, including the accepted January 7, 1991 injury and the claimed recurrence of disability commencing January 26, 2000.

Appellant disagreed with this decision and in an August 8, 2000 letter requested an oral hearing before a representative of the Office's Branch of Hearings and Review, held

[2] A September 8, 1997 bone scan of the right ankle showed "mildly increased uptake about the medial malleolus," and "the metatarsophalangeal joints of both great toes."

May 24, 2001. At the hearing, she asserted that she developed bilateral foot pain in 1991 which had never remitted. Appellant submitted new evidence.

In a November 2, 2000 report, Dr. Lamberto Eugenio, an attending Board-certified rheumatologist, noted a history of bilateral foot pain and paresthesias beginning in 1991. On examination, Dr. Eugenio noted swelling and tenderness in the ankles and at several metatarsophalangeal joints. He diagnosed "[a]typical sero-positive rheumatoid arthritis with predominant lesion involving the ankles and f[ee]t," bilateral enesopathy related to chronic foot strains, and degenerative arthritis of the first metatarsophalangeal joints bilaterally. Dr. Eugenio submitted progress notes through January 8, 2001.

In a May 11, 2001 report, Dr. Carols O. Diola, a Board-certified rheumatologist associated with Dr. Eugenio, diagnosed "generalized degenerative arthritis involving mainly the feet and ankles, left more than right," and rheumatoid arthritis. On examination, Dr. Diola found "joint puffiness" of both knees, feet and ankles. He recommended a "sit down job and minimize weight bearing."

By decision dated and finalized July 27, 2001, the Office hearing representative affirmed the July 19, 2000 decision of the Office, finding that appellant submitted insufficient evidence to establish causal relationship. The hearing representative found that Drs. de Bari, Cohen, Eugenio and Jagdale did not submit rationalized evidence attributing appellant's symptoms to the January 7, 1991 injury or any other employment factor. The hearing representative noted that while there was "no question that [appellant] should stay off her feet as much as possible," the physicians of record attributed this restriction to appellant's "long history of bilateral foot problems, and not due to her job duties performed in 1991."

The Board finds that appellant has not established that she sustained a recurrence of disability on and after January 25, 2000, causally related to her accepted bilateral foot strains or right ankle sprain.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position, the employee can establish a claimed recurrence of total disability only through submitting sufficient evidence showing a change in the accepted condition or in the light-duty job requirements such that he or she can no longer perform the light-duty job.[3] If the claim for recurrence of disability is based on a worsening of the accepted condition, the claimant must submit rationalized medical evidence substantiating this deterioration and explaining how and why the condition continues to be related to the accepted injuries or other factors of federal employment.[4]

In this case, the Office accepted that appellant sustained bilateral ligamentous foot strains in 1991 due to prolonged standing and walking as a letter carrier and an October 21, 1996 right ankle sprain. However, appellant was placed on light duty after January 7, 1991, and has not carried mail since August 24, 1991. Appellant asserted that she sustained a recurrence of disability beginning January 25, 2000, as the employing establishment could no longer accommodate her sedentary job restrictions.

[3] *Terry R. Hedman*, 38 ECAB 222 (1986).

[4] *Carl C. Graci*, 50 ECAB 557 (1999).

The Board finds that appellant did not submit sufficient factual evidence regarding any changes in her light-duty job occurring on and after January 25, 2000. Appellant has not substantiated that she was required to work outside of her medical restrictions against prolonged standing, walking and carrying mail. She has presented only the employing establishment's January 25, 2000 letter indicating that her current restrictions would no longer be accommodated. Although, this letter shows a change in the job position, the medical evidence does not establish that her medical restrictions continue to be valid.

In this connection, appellant has not submitted sufficient medical evidence to establish that her bilateral foot conditions on and after January 25, 2000 were related to the accepted bilateral ligamentous strains sustained on or before January 7, 1991, and October 21, 1996 right ankle sprain.

Appellant submitted several reports generally supporting a causal relationship between the accepted work factors and her bilateral foot conditions through December 7, 1999.

Dr. Jack F. Martin, an attending Board-certified podiatrist, explained in a July 8, 1992 report that appellant's preexisting bilateral flat foot and bunion deformities limited the "functional capability in her feet." Appellant thus sustained a "chronic midtarsal arch strain metatarsalgia" due to prolonged standing and walking as a letter carrier prior to January 7, 1991. Following the October 21, 1996 ankle sprain, Dr. Jagdale, a Board-certified orthopedic surgeon and second opinion physician, submitted a February 24, 1997 report diagnosing bilateral foot pain and possible reflex sympathetic dystrophy syndrome, attributable in part to the October 21, 1996 right ankle sprain. Dr. Jagdale asserted in a May 29, 1998 report that the right ankle sprain "resulted in disability," necessitating work restrictions through the end of August 1998. Dr. de Bari, an attending Board-certified orthopedic surgeon, submitted reports from late 1996 through December 7, 1999 attributing appellant's bilateral foot problems, in part, to "poor tolerance to pain" from the October 21, 1996 right ankle sprain, noting that her problems began "in 1991 when she was a letter carrier."

Appellant also submitted medical evidence addressing her medical condition on and after January 25, 2000.

Dr. de Bari submitted a March 20, 2000 report reiterating the findings and diagnoses of his December 7, 1999 report. However, in a May 12, 2000 report, Dr. de Bari stated that he was unable to find "any objective evidence" to explain appellant's bilateral foot pain, thus implying that the work-related conditions had resolved as they were no longer objectively present on examination. Thus, Dr. de Bari's reports tend to negate causal relationship.

In reports from June 28 to September 13, 2000, Dr. Cohen, a Board-certified podiatrist, noted severe bunion and flat foot deformities bilaterally, and diagnosed tarsal tunnel syndrome. Although Dr. Cohen noted appellant's account of her symptoms beginning in 1991, he did not provide medical rationale explaining how or why the accepted ligamentous strains or the October 21, 1996 right ankle sprain would cause appellant's bilateral foot conditions on and after January 25, 2000. Without such rationale, Dr. Cohen's reports are of little probative value in establishing causal relationship in this case.[5]

[5] *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

Appellant also submitted reports from November 2, 2000 to May 11, 2001 from Drs. Eugenio and Diola, Board-certified rheumatologists, who diagnosed rheumatoid arthritis and degenerative arthritis of both feet and ankles. However, Drs. Eugenio and Diola did not attribute the diagnosed rheumatoid or degenerative arthritis, or any aggravation thereof, in whole or in part, to factors of appellant's federal employment such as carrying mail prior to August 1991 or the October 26, 1991 right ankle sprain. As Drs. Eugenio and Diola did not address causal relationship, their reports are of little probative value in resolving this critical issue.

The employing establishment submitted February 2 and 10, 2000 reports from Dr. Trachtman, a Board-certified physiatrist who performed a fitness-for-duty examination for the employing establishment. Dr. Trachtman noted a congenital "mildly decreased arch bilaterally" and no other findings. The Board notes that Dr. Trachtman failed to mention the severe bilateral bunion deformities noted by other physicians of record. Thus, Dr. Trachtman's reports are of limited probative value as they are apparently based on an inadequate physical examination.[6]

As appellant submitted insufficient evidence substantiating either a change in the nature and extent of her light-duty position on and after January 25, 2000, or an objective worsening of the accepted conditions on and after that date, she has not met her burden of proof in establishing the claimed recurrence of disability commencing on that date.

The decision of the Office of Workers' Compensation Programs dated and finalized July 27, 2001 is hereby affirmed.

Dated, Washington, DC
June 17, 2002

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[6] *Yvonne R. McGinnis*, 50 ECAB 272 (1999).