

**United States Department of Labor
Employees' Compensation Appeals Board**

ANGELA J. DIXON, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Athens, OH, Employer**

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**Docket No. 04-1934
Issued: December 14, 2004**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

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

JURISDICTION

On July 27, 2004 appellant filed a timely appeal from an Office of Workers' Compensation Programs' decision dated May 18, 2004, denying modification of a December 30, 2003 decision which found that appellant failed to establish that her left foot or ankle condition was causally related to her employment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that her left foot and ankle conditions are causally related to factors of her federal employment.

FACTUAL HISTORY

On November 13, 2003 appellant, then a 32-year-old letter carrier, filed an occupational disease claim alleging that on April 20, 2002 she sustained a sprained left ankle and torn tendon when she stepped into a hole and fell. She advised her supervisor of the incident but did not file a claim. Appellant indicated that her condition gradually became worse, in the fall of 2002 her

foot and ankle were sore at the end of the workday. By the spring and summer of 2003 she was limping and she sought medical treatment on August 18, 2003.

By decision dated December 30, 2003, the Office denied appellant's claim on the grounds that she had failed to establish a medical condition causally related to the April 20, 2002 incident or to other factors of her employment. The Office noted that appellant had failed to submit any medical evidence.

On March 17, 2004 appellant requested reconsideration and submitted medical evidence.

In notes regarding examinations on August 18 and November 26, 2003, Dr. Gary W. Miller, a Board-certified orthopedic surgeon, diagnosed a moderate to severe planovalgus deformity of the foot and tendinitis of the tibia. He prescribed an arch support and medication. Dr. Miller did not indicate the cause of these conditions.

In a narrative report dated September 11, 2003, a physician stated that he examined appellant for left ankle and left sacroiliac pain. She reported having numerous past sprains but did not go to the hospital or have x-rays taken. The physician stated that an x-ray revealed a slight eversion of the ankle but there was no evidence of any gross changes, fracture or past injury. He opined that appellant's left ankle pain was probably a neuropathy originating from a bulging disc at L4-5 and from degenerative changes in the ankle.

On September 30, 2003 Dr. George Tokodi, Jr., an osteopathic orthopedic surgeon, examined appellant for left ankle pain. He diagnosed posterior tibial tendon insufficiency and tendinitis. He noted that x-rays revealed mild degenerative changes. Dr. Tokodi did not opine as to the cause of the condition.

In a report dated November 7, 2003, Dr. Thomas H. Lee, a Board-certified orthopedic surgeon, stated that appellant had left ankle pain and had sprained her ankle in April 2002 with subsequent worsening pain. He provided findings on physical examination and noted that x-rays revealed an abduction deformity through the talonavicular joint with no evidence of arthritis or fracture. Dr. Lee diagnosed left posterior tibial insufficiency and left valgus heel and recommended surgery. He did not provide an opinion as to the cause of the conditions.

By decision dated May 18, 2004, the Office denied appellant's claim for a left ankle injury. The Office modified the December 30, 2003 decision to reflect that she submitted medical evidence but found that it failed to establish a causal relationship between her diagnosed left foot and ankle conditions and the April 20, 2002 work incident or any other factor of her federal employment.

LEGAL PRECEDENT

To establish a causal relationship between appellant's left foot and ankle conditions and the April 20, 2002 employment incident, she must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's 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.¹

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.² Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that she sustained an injury in the performance of duty and that her disability was caused or aggravated by her employment.³ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁴ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.⁵

ANALYSIS

Appellant submitted medical evidence from several physicians who diagnosed various left ankle and foot conditions. However, none of the physicians provided a complete and accurate history of the April 20, 2002 employment incident when she stepped into a hole while delivering her route. The physicians did not provide an accurate assessment of her other work duties as a letter carrier nor related these conditions, diagnosed in 2003, to the April 20, 2002 incident. One physician noted that appellant reported having numerous sprains in the past but did not indicate the dates of these injuries or whether they were work or nonwork related. Two of the medical reports indicated degenerative changes or abnormalities in the left foot with no explanation as to how these changes or abnormalities were caused or aggravated by the April 20, 2002 work incident. Due to these deficiencies in the medical evidence, appellant failed to establish that she sustained a left foot or ankle condition causally related to the April 20, 2002 employment incident or other factors of her employment.

CONCLUSION

The Board finds that appellant failed to establish that she had any left ankle or foot condition causally related to the April 20, 2002 employment incident or other factors of her employment.

¹ *Gloria J. McPherson*, 51 ECAB 441 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

² *William Nimitz, Jr.*, 30 ECAB 567 (1979).

³ *Daniel R. Hickman*, 34 ECAB 1220 (1983).

⁴ *Edward E. Olson*, 35 ECAB 1099 (1984).

⁵ *Robert A. Boyle*, 54 ECAB ____ (Docket No. 02-2177, issued January 27, 2003); *Donna L. Mims*, 53 ECAB ____ (Docket No. 01-1835, issued August 13, 2002).

ORDER

IT IS HEREBY ORDERED THAT the May 18, 2004 and December 30, 2003 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 14, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member