

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

LISA L. HINDS, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Cordova, TN, Employer**

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**Docket No. 04-458
Issued: May 21, 2004**

Appearances:
Lisa L. Hinds, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On December 11, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated September 25, 2003. 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 established that she sustained a left ankle injury in the performance of duty on August 8, 2003.

FACTUAL HISTORY

On August 11, 2003 appellant, then a 29-year-old letter carrier, filed a traumatic injury claim for a possible left ankle fracture she allegedly sustained on August 8, 2003. She described the cause of her injury as "walking on work room floor, left ankle swelling when return from route." Appellant did not stop work. She submitted duty-status reports dated August 11 and 14, 2003, which noted left heel pain and a possible fracture. Appellant was limited to desk duty until

she could be evaluated by an orthopedist. She also submitted an August 14, 2003 work status update from Dr. Christopher L. Hendrix, a podiatrist, who prescribed a walking boot and recommended a bone scan to rule out a stress fracture. He advised that appellant should continue light-duty status.

The employing establishment controverted the claim on the basis that fact of injury was not established. On August 8, 2003 appellant allegedly walked past her supervisor and the postmaster and did not indicate that an injury occurred.

By letter dated August 21, 2003, the Office requested additional factual and medical information.

Appellant provided a September 15, 2003 statement, in which she noted that her injury occurred on Friday, August 8, 2003, at approximately 11:00 a.m., while retrieving an 80-pound parcel hamper at the employing establishment. She explained that, as she walked the hamper back to her workstation, she felt a sharp pain in her left foot. Appellant indicated that she continued with her work, including delivering her route, even though she was in discomfort and her foot began to swell. She experienced pain over the weekend and, on Monday, August 11, 2003 she went to her doctor who referred her to an orthopedic specialist. Appellant submitted a September 15, 2003 statement from Debbie Omedeo, who indicated that on August 8, 2003 she witnessed appellant in pain and noticed swelling of her left foot. Ms. Omedeo stated that she encouraged appellant to go to a doctor.

The Office received treatment notes from Dr. Hendrix for August 14, 2003, a September 2, 2003 bone scan and a September 11, 2003 work status update. The August 14, 2003 treatment notes indicate that appellant reported that she experienced intense pain and discomfort on Friday, August 8, 2003, after walking her route. The pain and discomfort was located in the left foot and ankle, in the area of the left heel. He noted that an August 11, 2003 x-ray of the left foot revealed no fracture, subluxations or dislocation. Dr. Hendrix diagnosed "left heel and ankle pain." He recommended that appellant wear a Bledsoe boot for a period of two to four weeks and that she continue in seated, sedentary duty for the next several weeks. Dr. Hendrix also recommended a bone scan. The September 2, 2003 bone scan revealed abnormal bony uptake at the left calcaneus of uncertain etiology. Dr. Hollis H. Halford, III, the reviewing Board-certified radiologist, indicated that this could represent a fracture of the calcaneus. Additional handwritten notes from Dr. Hendrix indicate that the x-ray abnormality was consistent with either a heel stress fracture or chronic fasciitis. Dr. Hendrix's September 11, 2003 work status update indicated that appellant could only perform sedentary duty.

In a decision dated September 25, 2003, the Office denied appellant's claim as she failed to establish that she sustained an injury as alleged.¹

¹ The Board notes that the file contains two versions of the September 25, 2003 Office decision. One version of the decision states that the claimed incident probably occurred as alleged, while the second version states that the evidence submitted was insufficient to establish that the August 8, 2003 incident occurred as alleged.

LEGAL PRECEDENT

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred.² The second component is whether the employment incident caused a personal injury.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴

ANALYSIS

The Office determined that the August 8, 2003 incident was not established as alleged. The Board finds, however, that the evidence of record supports that appellant did in fact retrieve an 80-pound parcel hamper on August 8, 2003 and took the container back to her workstation. She has provided a consistent history of the injury as reported on the Form CA-1 and in her statement of September 15, 2003. Appellant noted that she was walking on the work room floor and experienced pain and left ankle swelling. On September 15, 2003 she noted that at approximately 11:00 a.m. on August 8, 2003 she was retrieving an 80-pound parcel hamper and was walking the container back to her workstation when she felt a sharp pain in her left foot. Thereafter appellant stated that she completed delivery of her postal route and observed swelling in her left foot. The treatment notes submitted from Dr. Hendrix on August 14, 2003 noted that appellant reported experiencing pain and discomfort the prior Friday, August 8, 2003 after walking her mail route. The Board finds that her statements are consistent with the surrounding facts and circumstances and she has established that she experienced the employment incident on August 8, 2003.

While the record establishes that appellant experienced the August 8, 2003 employment incident, the medical evidence of record fails to establish that the August 8, 2003 employment incident caused a personal injury. Although Dr. Hendrix reported left heel and ankle pain in his August 14, 2003 treatment notes, he did not provide a specific diagnosis of appellant’s condition nor did he specifically attribute the reported left heel and ankle pain to her August 8, 2003 employment activities. The September 2, 2003 bone scan from Dr. Halford, the reviewing

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *See Robert G. Morris*, 48 ECAB 238 (1996). A physician’s opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989) Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and claimant’s specific employment factors. *Id.*

radiologist, reported abnormal bony uptake of the left calcaneus of uncertain etiology.⁵ He did not identify a date of injury or include a history of injury. While Dr. Halford surmised that the noted abnormality could represent a fracture of the calcaneus, he advised that correlation with plain film radiographs was recommended. The handwritten notations concerning the September 2, 2003 bone scan/nuclear medicine report made by Dr. Hendrix indicate a possible diagnoses of heel stress fracture or chronic fasciitis. There is no additional medical evidence regarding the etiology of the reported conditions. The August 11 and 14, 2003 duty status reports and Dr. Hendrix's August 14 and September 11, 2003 work status updates contain insufficient information to establish that appellant sustained an employment-related injury on August 8, 2003. As the record is devoid of any rationalized medical opinion evidence demonstrating that appellant sustained a personal injury as a result of the August 8, 2003 employment incident, the Office properly denied appellant's claim.

CONCLUSION

The Board finds that appellant failed to establish that she sustained a left ankle injury in the performance of duty on August 8, 2003.

ORDER

IT IS HEREBY ORDERED THAT the September 25, 2003 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: May 21, 2004
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁵ The fact that the etiology of a condition is unknown or obscure does not relieve appellant of the burden of establishing a causal relationship by the weight of the medical evidence. *Judith J. Montage*, 48 ECAB 292, 294-95 (1997). Moreover, evidence of an uncertain or obscure etiology does not shift the burden of proof to the Office to disprove an employment relationship. *Id.*