

suggest acute injury. Nursing notes of July 24, 2003 indicated that appellant stated that she hit the back of her heel, which was abraded and that she was experiencing pain with weight bearing, but that she was able to bend her toes with some difficulty. The nurse found that dorsiflexion caused discomfort.

Appellant's podiatrist, Dr. Philip J. Morreale, examined her on August 26, 2003 and noted that something ran over the back of appellant's foot on July 24, 2003 and that appellant twisted her foot. He diagnosed probable foot strain and plantar fasciitis with some nerve-type symptoms. On October 28, 2003 Dr. Morreale stated that appellant had neuroma-type pain secondary to the July 24, 2003 injury. He stated that appellant twisted her foot and could have irritated or strained the nerve in the interdigital area. Dr. Morreale stated that appellant had pain on palpation with shooting, zinger pain into the toes, indicative of a neuroma. He diagnosed Morton's neuroma, injury related. Dr. Morreale treated appellant with injections on October 28, November 11, 18 and 25 and December 2, 2003.

On January 9, 2004 the Office accepted appellant's claim for contusion with abrasion left posterior heel.

Dr. Morreale recommended surgical treatment on January 13, 2004. On February 10, 2004 he stated that he first examined appellant on August 26, 2003 following her July 24, 2003 employment injury. Dr. Morreale stated that a machine ran over the back of her foot, that she twisted her foot and experienced pain. He noted that appellant's current diagnosis was a perineural fibrosis of the interdigital nerves of the left foot. Dr. Morreale stated:

“This type of problem usually is caused by some stress-related injury to the area which causes scarification around the nerve and eventual nerve or neuroma-type symptoms. It is quite possible that the injury which she sustained could have torqued or put tension on the nerve which created symptoms and eventual scarification around the nerve.”

The Office referred the medical evidence to the Office medical adviser on March 8, 2004. On March 10, 2004 the Office medical adviser reviewed the initial hospital notes and found that appellant abraded her heel on July 24, 2003. He found that Dr. Morreale provided an incorrect history of injury as “something ran over the back of her foot.” The Office medical adviser found that only when this history was accepted was it possible to understand the relationship between a neuroma between appellant's toes. He stated, “Hitting the heel (not the foot) on July 24, 2003, this claimant could not have developed a Morton's neuroma.”

By decision dated March 12, 2004, the Office denied appellant's claim for the development of a Morton's neuroma as a result of her accepted July 24, 2003 employment injury and denied her request for surgery.

Appellant requested reconsideration in a letter received by the Office on April 1, 2004. She asserted that she had consistently stated that on July 24, 2003 she ran over the back of her foot with the cart which weighed 450 pounds. Appellant stated that the abrasion on the back of her heel was caused by the bottom of the cart scraping across her foot while it was under the cart. She stated that the injury on her heel was one and half inches off of the ground while the cart's

height was approximately seven and a quarter inches off of the ground. Appellant also noted that she mentioned a bruised foot on her initial claim form.

By decision dated April 16, 2004, the Office denied modification of its March 12, 2004 decision finding that there was no contemporaneous evidence of an injury between appellant's toes.

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. The second component is whether the employment incident caused a personal injury. Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.¹

As part of an employee's burden of proof, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relation. The question of whether there is a causal relationship is medical in nature, and generally, can be established only by medical evidence. This medical opinion must be based upon a complete factual and medical background with an accurate history of appellant's employment injury. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.²

ANALYSIS

Appellant has consistently stated that she ran over the back of her left foot with a cart on July 24, 2003. On her claim form, she indicated that she "ran over the back of foot (heel)" with the cart, sustaining bruises and abrasions to her foot and heel. Nursing notes on that date describe a heel abrasion and pain with weight bearing and dorsiflexion. Appellant provided a more detailed narrative statement on reconsideration and alleged that her entire foot was underneath the 450-pound cart resulting in the scraping of her left heel. Appellant's attending physician, Dr. Morreale, a podiatrist, concluded that appellant twisted her foot while it was under the cart which eventually caused the Morton's neuroma. The Office medical adviser opined this diagnosis was based on an incorrect history of injury as Dr. Morreale found "something ran over the back of her foot" rather than just her heel.

¹ *Steven S. Saleh*, 55 ECAB ___ (Docket No. 03-2232, issued December 12, 2003).

² *James Mack*, 43 ECAB 321, 328-29 (1991).

Proceedings under the Federal Employees' Compensation Act³ are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.⁴ In this case, the Office undertook additional development of appellant's claim by referring the evidence to the Office medical adviser. He opined that the factual evidence did not support the diagnosis of a Morton's neuroma as a result of the accepted employment injury. Following his report, appellant submitted an additional narrative statement describing the weight and height of the cart which caused her accepted employment injury and the exact means by which she sustained this injury to her foot and not merely her heel. The Office did not provide this additional factual evidence to the Office medical adviser for consideration of whether this additional factual evidence had any bearing on his assumptions. Once the Office has begun an investigation of a claim, it must pursue the evidence as far as reasonably possible.⁵ As the Office undertook further development of appellant's claim by referring her claim to the Office medical adviser, the Office must further pursue the development of appellant's medical evidence based on the additional factual evidence she submitted.

On remand the Office should develop a statement of accepted facts based on all the evidence of record, including any inquiry of the employing establishment regarding the size and height of the cart involved and undertake any other development of the factual basis of appellant's claim as the Office deems necessary. The Office should then refer appellant to an appropriate physician to determine whether based on this factual evidence the initial employment incident, resulting in acceptance of the contusion with abrasion of the left posterior heel, was such that the diagnosed condition of Morton's neuroma could have arisen as a result of the trauma. Following this and any further development, the Office shall issue a *de novo* decision.

CONCLUSION

The Board finds this case not in posture for decision. Appellant submitted additional supportive factual evidence regarding the nature and extent of her July 24, 2003 employment injury which requires further development of the factual and medical evidence by the Office to determine whether the Morton's neuroma resulted therefrom.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Leon Thomas*, 52 ECAB 202, 204 (2001).

⁵ *Edward Schoening*, 41 ECAB 277, 282 (1989).

ORDER

IT IS HEREBY ORDERED THAT the April 16 and March 12, 2004 decisions of the Office of Workers' Compensation Programs are set aside and remanded the case for further development consistent with this decision of the Board.

Issued: October 14, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member