

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

GRAG L. WAKE, SR., Appellant

and

**U.S. POSTAL SERVICE, PROCESSING &
DISTRIBUTION CENTER, Kokomo, IN,
Employer**

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**Docket No. 05-163
Issued: March 25, 2005**

Appearances:
Grag L. Wake, Sr., pro se
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 October 19, 2004 appellant filed a timely appeal from a September 17, 2004 merit decision of the Office of Workers' Compensation Programs which denied his claim. Under 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 his burden of proof to establish that he sustained an injury causally related to factors of employment

FACTUAL HISTORY

On June 14, 2004 appellant, then a 43-year-old mailhandler, filed a Form CA-2, occupational disease claim, alleging that he sustained left little hammer toe in the performance of his federal duties. In an accompanying statement, he related that on May 27, 2004 he visited his podiatrist, Dr. Pratap Gohil, who diagnosed hammer toe. Appellant stated that he had noticed toe pain for one month and advised that his daily work duties required standing and walking on

cement for eight hours per day while pushing mail containers that weighed up to 1,100 pounds. He also submitted a disability slip dated May 27, 2004 in which Dr. Gohil noted that appellant had been examined that day. The employing establishment controverted the claim.

By letter dated July 7, 2004, the Office informed appellant of the evidence needed to support his claim. It requested a statement identifying the employment factors that he believed caused his condition and medical documentation for the claimed condition, which contained a reasoned opinion from his physician regarding the cause of his condition. The letter further explained that it was appellant's responsibility to provide the requested information to the Office within 30 days. In a response dated July 22, 2004, appellant again described the employment factors he believed caused his condition. The record also contains an employment physical dated December 9, 1993.

By decision dated September 17, 2004, the Office found that appellant had established compensable employment factors but that he did not sustain an employment-related injury on the grounds that the medical evidence was insufficient.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition, for which compensation is claimed are causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.²

Office regulations, at 20 C.F.R. § 10.5(q) define occupational disease as a condition produced by the work environment over a period longer than a single workday or shift.³ To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.⁴

¹ 5 U.S.C. §§ 8101-8193.

² *Gary J. Watling*, 52 ECAB 357 (2001).

³ 20 C.F.R. § 10.5(q); *see Ellen L. Noble*, 55 ECAB ____ (Docket No. 03-1157, issued May 7, 2004).

⁴ *Donna L. Mims*, 53 ECAB 730 (2002).

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁵ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.⁶ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁷

ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish that employment factors caused his left little toe condition. Appellant identified the factors of employment that he believed caused his condition. However, in order to establish his claim that he sustained an employment injury, appellant must submit rationalized medical evidence explaining that his toe condition was caused or aggravated by the implicated factors.⁸

On July 7, 2004 the Office informed appellant of the evidence needed to support his claim and to submit a physician's report explaining how the toe condition was caused by employment factors. The medical evidence of record includes a slip dated May 27, 2004 in which Dr. Gohil noted that appellant had been examined that day. In order to establish a claim, an employee must submit medical evidence establishing the presence or existence of the disease or condition, for which compensation is claimed together with medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁹ The May 27, 2004 treatment slip does not provide either a diagnosis or an opinion regarding the cause of any diagnosed condition. It is insufficient to establish appellant's claim. The record also contains an employment physical dated December 9, 1993. This, however, is irrelevant to the instant claim filed in June 2004. Thus, the record contains no probative medical evidence addressing the issue of causal relationship.

⁵ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁶ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

⁷ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁸ *Leslie C. Moore*, *supra* note 6.

⁹ *Donna L. Mims*, *supra* note 4.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained an injury causally related to factors of employment.¹⁰

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 17, 2004 be affirmed.

Issued: March 25, 2005
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

¹⁰ The Board notes that appellant retains the right to submit this evidence to the Office with a valid request for reconsideration. See 20 C.F.R. §§ 10.605-10.610; *James A. Castagno*, 53 ECAB 782 (2002).