

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

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JULIUS C. HODGES, Appellant)	
)	
and)	
)	Docket No. 06-250
)	Issued: March 3, 2006
U.S. POSTAL SERVICE, POST OFFICE, Tampa, FL, Employer)	
)	
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Appearances:
Lenin Perez, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 10, 2005 appellant filed a timely appeal of a September 28, 2005 merit decision of an Office of Workers' Compensation Programs' hearing representative, affirming a August 5, 2004 decision denying appellant's claim for a left foot condition. 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 has established a left foot condition causally related to his federal employment.

FACTUAL HISTORY

On May 12, 2004 appellant, then a 52-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that he sustained a left foot condition as a result of his federal employment. The reverse of the claim form indicated that appellant had stopped working as of February 22, 2004.

Appellant submitted a report dated May 4, 2004 from Dr. Paul Sheehy, a podiatrist, who stated that appellant was evaluated on March 31, 1999 for a painful right heel and toes. He reported that the pain was aggravated by constant foot pedal motion at work. Dr. Sheehy diagnosed right foot plantar fasciitis, bilateral hammer toes fifth and bilateral contracted digits two, three and four. He stated “foot deformities were aggravated by the repetitive plantar flexion and dorsiflexion of feet. The repetitive overuse of foot muscles resulted in grandur contracture of toes.” Dr. Sheehy reported that on March 5, 2004 appellant had fifth toe hammer toe repair of the left foot and tenolysis of flexor tendons third and fourth digit of the left foot. He stated that appellant was disabled from March 5, 2004.

By letter dated June 18, 2004, the Office requested that appellant submit additional factual and medical evidence regarding his claim. In a decision dated August 5, 2004, the Office denied the claim for compensation on the grounds that the factual and medical evidence was insufficient to establish the claim.

Appellant requested an oral hearing before an Office hearing representative, which was held on June 14, 2005. At the hearing, appellant explained that his job involved the operation of a tow motor that required his left foot to press hard on a pedal. He indicated that constant pressure was required for the foot or the motor would shut off automatically.

By decision dated September 28, 2005, the Office hearing representative affirmed the August 5, 2004 decision. The hearing representative found that the medical evidence was insufficient to establish a left foot condition causally related to employment factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his 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, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.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 employment factors identified by the claimant were the proximate cause of the condition for

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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.⁴

ANALYSIS

In this case, appellant identified as employment factors the operation of a tow motor that required constant pressure with his left foot. The deficiency in the claim is the lack of a reasoned medical opinion, based on a complete factual and medical background, on the issue of causal relationship between a diagnosed left foot condition and the identified employment factors. Dr. Sheehy provided a diagnosis, for the left foot, of fifth hammer toes and contracted digits two through four. He does not, however, provide a complete history that demonstrates familiarity with appellant's work history and specific job duties, or a complete medical history that provides an adequate background for an opinion on causal relationship. Dr. Sheehy briefly stated that appellant reported aggravation of pain from foot pedal motion and noted "repetitive overuse of foot muscles" without providing additional detail and a clear explanation of how the identified work factors contributed to the diagnosed conditions.

It is appellant's burden of proof to submit probative medical evidence with respect to his claim. The medical evidence of record is of diminished probative value and is not sufficient to meet appellant's burden of proof in this case.

CONCLUSION

Appellant did not meet his burden of proof to establish a diagnosed left foot condition causally related to his federal employment.

⁴ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 28, 2005 is affirmed.

Issued: March 3, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board