

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

C.E., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Des Moines, IA, Employer)

**Docket No. 10-1783
Issued: March 8, 2011**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 16, 2010 appellant filed a timely appeal from an April 14, 2010 merit decision of the Office of Workers' Compensation Programs. 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 his burden of proof to establish that he sustained a traumatic injury of his right ankle on August 21, 2006.

FACTUAL HISTORY

On August 22, 2006 appellant, then a 47-year-old letter carrier, filed a traumatic injury claim alleging that on August 21, 2006 he twisted his right ankle when he stepped in a hole while delivering mail. He included a signed, personal narrative and pay rate information.

On February 16, 2010 appellant filed a Form CA-7 for a schedule award.

In a letter dated March 10, 2010, the Office informed appellant that his claim had originally been handled administratively as a simple/controverted claim to allow medical payments up to \$1,500.00, but that the merits of the case had not been formally adjudicated. It advised that it would now proceed to formally adjudicate the claim and that the evidence appellant submitted was insufficient to support his claim. The medical evidence of record did not provide a diagnosis of any condition resulting from the August 21, 2006 employment incident or a physician's opinion regarding how the employment incident caused any diagnosed condition.

On March 22, 2010 the Office received another Form CA-7 from appellant requesting a schedule award. Appellant did not submit any additional medical evidence.

In a decision dated April 14, 2010, the Office denied appellant's claim. It accepted that the August 21, 2006 employment incident occurred as alleged, but found that the medical evidence failed to provide a medical diagnosis or physician's opinion regarding how any condition was causally related to the employment incident.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence,² including that he is an "employee" within the meaning of the Act, that he filed his claim within the applicable time limitation and that an injury was sustained in the performance of duty.³ To determine whether a federal employee actually sustained a traumatic injury in the performance of duty, it first must be determined whether "fact of injury" has been established.⁴ First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty,

¹ 5 U.S.C. §§ 8101-8193.

² *J.P.*, 59 ECAB 178 (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

³ *M.M.*, 60 ECAB ___ (Docket No. 08-1510, issued November 25, 2008); *Kathryn A. O'Donnell*, 7 ECAB 227, 231 (1954).

⁴ *T.S.*, 61 ECAB ___ (Docket No. 09-2184, issued June 9, 2010); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

⁵ *T.H.*, 59 ECAB 388 (Docket No. 07-2300, issued March 7, 2008); *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

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 employee.⁶

ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a traumatic injury on August 21, 2006. The Office accepted that the employment incident occurred as alleged when appellant stepped in a hole while delivering mail. However, the issue of whether the accepted employment incident caused a personal injury generally can only be established by the submission of medical evidence.⁷ In this case, appellant has not submitted any rationalized, probative medical evidence demonstrating that the August 21, 2006 employment incident caused a right ankle injury, as claimed.

Appellant did not provide any medical report from a physician with a diagnosis of his condition, or a medical opinion which sufficiently describes or explains how the August 21, 2006 employment incident caused the claimed injury. In a letter dated March 10, 2010, the Office advised appellant of the evidence required to establish his claim but appellant failed to submit any medical evidence.⁸ Appellant failed to establish that he sustained a right ankle injury as a result of the August 21, 2006 employment incident and the Office properly denied his claim.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a right ankle injury on August 21, 2006.

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *J.Z.*, 58 ECAB 529 (2007); *R.D.*, (Docket No. 10-1037, issued January 12, 2011).

⁸ *See Donald W. Wenzel*, 56 ECAB 390 (2005).

ORDER

IT IS HEREBY ORDERED THAT the April 14, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 8, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board