

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

J.E., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Dallas, TX, Employer**

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**Docket No. 12-643
Issued: August 8, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On January 30, 2012 appellant filed a timely appeal from a January 9, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his claim of compensation. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 his left ankle condition was caused by factors of his federal employment.

FACTUAL HISTORY

On August 16, 2011 appellant, then a 55-year-old mail handler, filed a claim for occupational disease, alleging that he developed a left ankle condition as a result of his employment. He claimed that his ankle swelling, which began on January 25, 2011, was caused

¹ 5 U.S.C. § 8101 *et seq.*

by walking, pushing and loading mail at work. Along with his claim, appellant submitted medical bills and receipts.

In an August 22, 2011 letter, OWCP notified appellant that additional evidence was necessary to establish his claim. Appellant was asked to submit a comprehensive narrative medical report that included a diagnosis of his condition and a physician's opinion supported by a medical rationale as to how his work activities caused, contributed to or aggravated his medical condition. He subsequently submitted documentation regarding medical billing.

On September 28, 2011 OWCP denied appellant's claim for compensation on the grounds that he had submitted insufficient medical evidence to establish that he sustained a diagnosed condition as a result of his employment duties. Appellant requested reconsideration on October 24, 2011.

Along with the request, appellant submitted an October 14, 2011 medical note signed by Dr. John Tenny, Board-certified in orthopedic surgery, who stated that he had been treating appellant since January 27, 2011 for synovitis of the left ankle with prominent dorsal tala spur, which was caused by aging and chronic use of an extremity.

In its January 9, 2012 reconsideration decision, OWCP reviewed appellant's case on the merits and affirmed the denial of his claim. It stated that he had established fact of injury, but had failed to establish that his diagnosed conditions were causally related to the work factors in his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, 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 disabilities and/or specific conditions for which compensation is claimed are 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

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁴ To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or

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

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

⁴ *See S.P.*, 59 ECAB 184, 188 (2007).

condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁵

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, 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

ANALYSIS

The record establishes that appellant's job duties entailed walking, pushing and loading of mail. Appellant has also submitted a medical report which contains a firm diagnosis of his left ankle condition as synovitis with prominent dorsal tala spur. The Board finds however that he has not met his burden of proof to establish that these accepted factors caused or aggravated the left ankle condition.

In his October 14, 2011 medical note, Dr. Tenny diagnosed appellant with left ankle synovitis that resulted from aging and chronic use of an extremity. He did not provide a history of appellant's employment duties or a complete medical history. Dr. Tenny did not explain how appellant's medical condition was causally related to the factors of his federal employment; he provided no medical rationale explaining how walking, pushing and loading of mail caused appellant's diagnosed conditions. As such, his medical note was of limited probative value because it was not based upon a complete factual and medical background and provided no opinion on the issue of causal relationship.⁷

Appellant may submit new evidence or argument as part of a formal written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not establish that he sustained an occupational disease in the performance of duty.

⁵ See *R.R.*, Docket No. 08-2010 (issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

⁶ *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 3.

⁷ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

ORDER

IT IS HEREBY ORDERED THAT the January 9, 2012 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 8, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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