United States Department of Labor
Employees' Compensation Appeals Board

R.H., Appellant	)	
and	)	**Docket No. 15-1702**
	)	**Issued: November 2, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Cleveland, OH, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 10, 2015 appellant, through counsel, filed a timely appeal from the July 7, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that his claimed condition is causally related to a July 12, 2014 employment incident.

FACTUAL HISTORY

On July 14, 2014 appellant, then a 44-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging he sprained his left ankle in the performance of duty on July 12, 2014. At approximately 11:00 a.m. on July 12, 2014, he reportedly began to feel discomfort in his left ankle while delivering mail to a certain address, but did not know the cause of his discomfort.

[1] 5 U.S.C. § 8101 *et seq.*

On the Form CA-1, the employing establishment indicated that, based on appellant's statement, he was injured in the performance of duty. It further represented that the injury was not the result of willful misconduct, intoxication, or appellant's intent to injure himself or someone else. The claim form also indicated that appellant first received medical attention on July 12, 2014, and he stopped work on July 14, 2014.

Dr. J. Britten Shroyer, a Board-certified orthopedic surgeon, examined appellant on July 22, 2014. Appellant's chief complaint was left foot/ankle pain. Dr. Shroyer noted a history of left forefoot pain delivering mail. He further noted that appellant walks his route. A left foot/ankle x-ray was negative. Dr. Shroyer diagnosed ankle pain. He prescribed custom orthotics and referred appellant for additional imaging studies of both feet.

On August 15, 2014 OWCP advised appellant to submit additional factual and medical evidence in support of his claimed July 12, 2014 left ankle/foot injury. Appellant was afforded 30 days to submit the requested information.

OWCP subsequently received an August 14, 2014 left ankle magnetic resonance imaging (MRI) scan, which revealed a stress fracture through the base of the second metatarsal.[2] Additionally, it received an August 15, 2014 duty status report (Form CA-17) and an undated attending physician's report (Form CA-20) from Dr. Shroyer.[3] Dr. Shroyer diagnosed stress fracture through the base of the left second metatarsal. He identified July 12, 2014 as the date of injury and noted that appellant's condition was "caused by stress of walking." Dr. Shroyer also noted that appellant was on nonweight-bearing status until his next follow-up. He also provided a September 3, 2014 duty status report which included a diagnosis of left foot fracture. Appellant was disabled from all work until after his next follow-up appointment. On the September 3, 2014 Form CA-17, Dr. Shroyer noted "healing [fracture] of left foot."

In a September 10, 2014 statement, appellant related that he was delivering mail when he began to feel pain in his left foot. He continued to deliver the mail while in pain. As the day went on, the pain increased and appellant began shifting his weight to the left side of his foot. He stated that he completed his July 12, 2014 assigned duties, and then reported the injury. Appellant's supervisor reportedly asked whether he had fallen, tripped, or stumbled. Appellant stated that he explained that none of those things occurred. When he arrived home that evening and removed his work shoe, he noted that his left foot had swollen. Appellant then went to the emergency room (ER) and explained that his left foot hurt where it bends. He stated that he was told he needed MRI scan testing, and the ER staff referred him to an orthopedic specialist. Appellant further explained that the MRI scan revealed a stress fracture of the left second toe. He claimed to have never had a stress fracture before.

In a September 18, 2014 decision, OWCP denied appellant's traumatic injury claim because he failed to establish that the July 12, 2014 incident occurred as alleged. It further found that the evidence failed to establish that the diagnosed left second toe stress fracture was employment related.

[2] The film was interpreted by Dr. Christos Kosmas, a Board-certified diagnostic radiologist.

[3] Although undated, the employing establishment received Dr. Shroyer's Form CA-20 on August 15, 2014.

Appellant's counsel timely requested a hearing before an OWCP hearing representative, which was held on April 20, 2015.

In an October 7, 2014 follow-up report, Dr. Shroyer noted that appellant had a clinically healed stress fracture which was directly related to his work as a postal employee. He further noted that appellant was ready to return to work. Dr. Shroyer advised appellant to wear supportive shoes. He also provided an October 8, 2014 duty status report (Form CA-17) releasing appellant to perform his normal duties. The only caveat was that appellant limit himself to an eight-hour workday.

At the April 20, 2014 hearing, appellant stated that he worked as a carrier for 17 years, and that his route was primarily a walking route. He would drive to a certain location and then deliver the mail on foot. Appellant stated that, when he first experienced the sharp pain in his foot on July 12, 2014, he was walking across a grassy, uneven lawn on Colony Road. The location was a residential neighborhood consisting of single-family homes, most of which had grassy front lawns. Appellant indicated that he was wearing regulation postal shoes. He also indicated that it was a hot day and an uneven walk, but otherwise there was nothing unusual about his mail route.

By decision dated July 7, 2015, the OWCP hearing representative found that the July 12, 2014 incident occurred as alleged and that appellant was in the performance of duty at the time. However, she continued to deny the claim on the basis that the medical evidence did not adequately explain how the accepted employment exposure caused a stress fracture of appellant's left second toe.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.[4]

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP 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 is whether the employee actually experienced the employment incident that allegedly occurred.[5] The second component is whether the employment incident caused a personal injury.[6] An employee may establish that an injury occurred in the performance of duty

[4] 20 C.F.R. § 10.115(e), (f); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

[5] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[6] *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s). *Id.*

as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.[7]

ANALYSIS

The hearing representative accepted that the July 12, 2014 employment incident occurred as alleged. Additionally, the record includes a medical diagnosis of left foot stress fracture through the base of the second metatarsal. Dr. Kosmas, a radiologist, found evidence of a stress fracture on appellant's August 14, 2014 left ankle MRI scan. Moreover, in an undated attending physician's report (Form CA-20), Dr. Shroyer similarly diagnosed stress fracture through the base of the left second metatarsal.[8] He identified July 12, 2014 as the date of injury and noted that appellant's condition was "caused by stress of walking."

The issue currently before the Board is currently limited to whether the medical evidence establishes a causal relationship between appellant's stress fracture and his accepted July 12, 2014 occupational exposure. As noted, causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.[9] A physician's opinion on causal relationship must be based on a complete factual and medical background.[10] The mere fact that a condition manifests itself during a period of employment is not sufficient to establish causal relationship.[11] Temporal relationship alone will not suffice.[12] Furthermore, appellant's personal belief that his employment activities either caused or contributed to his condition is insufficient, by itself, to establish causal relationship.[13]

In his August 2014 attending physician's report (Form CA-20), Dr. Shroyer identified July 12, 2014 as the date of injury and noted that appellant's condition was "caused by stress of walking." In an October 7, 2014 follow-up report, he opined that appellant's healed stress fracture was directly related to his work as a postal service employee. A physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[14] In this instance, the above-referenced reports do not adequately explain how appellant's specific city carrier duties, including walking a mail route, either caused or contributed to the development of a stress fracture of the left second metatarsal.

[7] *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

[8] As previously noted, the employing establishment received Dr. Shroyer's undated Form CA-20 on August 15, 2014. *See supra* note 3.

[9] *Robert G. Morris*, *supra* note 6.

[10] *Victor J. Woodhams*, *supra* note 6.

[11] 20 C.F.R. § 10.115(e).

[12] *See D.I.*, 59 ECAB 158, 162 (2007).

[13] 20 C.F.R. § 10.115(e); *Phillip L. Barnes*, 55 ECAB 426, 440 (2004).

[14] *Victor J. Woodhams*, *supra* note 6.

The Board finds that the medical evidence of record fails to establish that appellant's claimed left foot stress fracture is causally related to his July 12, 2014 accepted employment incident. Accordingly, appellant has failed to meet his burden of proof.

Appellant may submit new evidence or argument with a 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

Appellant failed to establish that his claimed condition is causally related to a July 12, 2014 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 7, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 2, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board