United States Department of Labor
Employees' Compensation Appeals Board

S.J., Appellant	)	
and	)	**Docket No. 16-0493**
	)	**Issued: April 13, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Greenville, 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
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On January 20, 2016 appellant, through counsel, filed a timely appeal from an October 23, 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 this case.

ISSUE

The issue is whether appellant met her burden of proof to establish an occupational disease due to the factors of her federal employment.

FACTUAL HISTORY

On September 19, 2014 appellant, then a 48-year-old city letter carrier, filed an occupational disease claim (Form CA-2) alleging that factors of her employment caused left foot plantar fasciitis. She claimed that her left foot condition was aggravated by standing and

[1] 5 U.S.C. § 8101 *et seq.*

walking her mail route. Appellant advised that she became aware of her condition on March 1, 2014 and its relation to her federal employment on July 15, 2014. She stopped work on September 15, 2014 and was released back to work with restrictions on November 3, 2014.

Appellant submitted several status reports from Dr. Whitney Holsopple, a podiatrist specializing in orthopedic foot and ankle surgery. In a July 18, 2014 report, Dr. Holsopple advised that appellant presented with severe left heel pain and related that she could hardly walk on her heel. She noted that appellant was experiencing severe pain over the plantar aspect of the left foot aggravated by walking. Examination of the left ankle revealed normal gait, tenderness over the plantar calcaneus, intact sensation, and intact alignment. Dr. Holsopple assessed foot pain, plantar fasciitis, and neuralgia. In a July 15, 2014 report, she advised that appellant was still experiencing left heel pain, but there had been some improvement. Dr. Holsopple noted that appellant was waiting to be fitted with custom orthotics. In a July 22, 2014 report, she indicated that appellant's pain was somewhat less severe, but had moved to the plantar medial heel. In an August 26, 2014 report, Dr. Holsopple prescribed an orthotic and found the severity of pain was unchanged.

In a September 8, 2014 diagnostic report, Dr. James Joseph, a Board-certified diagnostic radiologist, advised that a left ankle magnetic resonance imaging (MRI) scan revealed severe plantar fasciitis, severe fatty replacement of the adductor digiti minimi muscle, hypertonic tendinosis of the retromalleolar and juxtamalleolar segments of the peroneus longus tendon, and no evidence of fracture or stress fracture. He referenced no known injury, but that appellant did a lot of standing and walking at her employment.

In a September 17, 2014 report, Dr. Michael Robert Maher, a podiatrist, advised that appellant presented for a second opinion regarding her foot and ankle pain. He noted that she had complications for months, but recently her pain worsened. Examination revealed guarded range of motion and mild edema to medial and lateral calcaneus with pain to palpation. Dr. Maher assessed foot pain, plantar fasciitis, and peroneal tendon tear. He indicated that appellant was employed as a mail carrier and noted that she was unable to perform her duties as her position required walking. However, Dr. Maher noted that she could potentially modify her job with a driving route or casing mail.

In a September 26, 2014 report, Dr. Maher advised that appellant was doing fairly well and was feeling much better. He noted that she was slowly improving and only using one crutch and a boot. Examination revealed resolved edema and no appreciable discomfort over the Achilles with range of motion and stretching. Dr. Maher indicated that appellant would be starting a rigid physical therapy program.

In an October 1, 2014 statement, appellant advised that a previously accepted right foot condition caused strain to her left foot. She indicated that her route was seven miles and that she was required to carry mail weighing 30 to 35 pounds for 30 plus yards before reaching a mailbox. Appellant noted that in May 2014 she began having constant pain in her left foot which eventually became intolerable and caused her to seek medical attention.

In an October 14, 2014 disability status report, Dr. Maher advised that appellant was unable to work until October 31, 2014. He diagnosed peroneal tendon tear and plantar fasciitis.

In an October 31, 2014 duty status report (Form CA-17), Dr. Maher advised that appellant was able to return to work with restrictions as of November 3, 2014.

By letter dated November 17, 2014, OWCP advised appellant of the type of evidence needed to establish her claim. Appellant was informed that she had 30 days to submit responsive evidence.

In an October 31, 2014 report, Dr. Maher advised that appellant would be returning to work in a supervisory position. He indicated that her swelling and inflammation was unchanged and that she still had minimal discomfort to the plantar aspect of the plantar fascial attachment into the peroneal tendon area.

In a December 10, 2014 report, Dr. Maher related the history of appellant's injury and treatment. He noted that her position required her to walk several miles a day carrying a heavy load. Dr. Maher indicated that appellant sustained an ankle sprain that had caused significant pain and discomfort to the lateral and plantar aspect of her left ankle and foot. He opined that extensive time on her feet and a fall reasonably could have caused her condition. Dr. Maher noted that appellant did not have these complications before the incident. With a significant peroneal tendon tear and plantar fasciitis, appellant was unable to walk pain free due to the fact that the tears caused instability to the ankle and increased pain due to the tearing and pressure to the calcaneus. Dr. Maher noted that she spent significant time on her feet walking and carrying heavy loads. He recommended surgery.

In a December 17, 2014 report, Dr. Maher advised that appellant was improving as her new position did not require her to stand as much, but noted that she was still experiencing lateral ankle and foot pain. Examination of the lower extremity revealed normal range of motion, normal strength, mild pain to peroneal tendons, minor weakness to eversion, and lateral ankle weakness. Dr. Maher diagnosed foot pain, plantar fasciitis, and peroneal tendon tear.

By decision dated January 23, 2014, OWCP denied appellant's claim finding the medical evidence of record insufficient to establish that her left foot condition was causally related to factors of her employment.

By letter dated February 5, 2015, appellant, through counsel, requested an oral telephone hearing.

At the August 11, 2015 oral hearing appellant reiterated that she walked seven to eight miles per day carrying a mail satchel over her shoulder. She noted that she previously had an accepted right foot claim, but that she later experienced left foot problems which worsened in 2014. Although appellant was promoted to a supervisor position no longer requiring her to walk, she still experienced left foot pain. Counsel argued that Dr. Maher's report was sufficient to establish the claim.

By decision dated October 23, 2015, an OWCP hearing representative affirmed the January 23, 2014 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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, 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. To establish 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 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.[4]

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 generally required to establish causal relationship. 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.[5] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

ANALYSIS

It is undisputed that appellant's job entailed amounts of walking and standing. However, the medical evidence is insufficient to establish that her condition was caused by these factors of her employment.

In his December 10, 2014 report, Dr. Maher noted that appellant's position required her to walk several miles a day carrying a heavy bag. He opined that extensive time on her feet and a fall reasonably could have caused her condition. Dr. Maher advised that due to significant time on her feet, walking, and carrying heavy loads with a significant peroneal tendon tear and plantar

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

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

[4] *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

[5] *I.J.*, 59 ECAB 408 (2008); *supra* note 3.

[6] *James Mack*, 43 ECAB 321 (1991).

fasciitis, she was unable to walk pain free due to the fact that the tears caused instability to the ankle and increased pain due to the tearing and pressure to the calcaneus. The Board has long held that medical opinions not containing rationale on causal relation are of diminished probative value and are generally insufficient to meet appellant's burden of proof.[7] Dr. Maher fails to explain how extensive time on appellant's feet resulted in the diagnosed condition.[8] He noted that appellant did not have these complications before the incident, but the Board has held that the mere fact that an employee was asymptomatic before the injury, but symptomatic after the injury is insufficient, without supporting rationale, to establish causal relationship.[9] Dr. Maher also referenced a fall as a cause of appellant's condition but did not state when the fall occurred or the circumstances of same. Appellant did not reference a fall on her notice of occupational disease or in her October 1, 2014 statement. The Board has held that medical opinions based upon an incomplete history have little probative value.[10]

The other reports from Dr. Maher are also insufficient to discharge appellant's burden of proof as they failed to address causal relationship.[11]

In her July 18, 2014 report, Dr. Holsopple advised that appellant presented with severe pain over the plantar aspect of the left foot aggravated by walking. Although she noted that walking aggravated appellant's foot pain, Dr. Holsopple failed to offer an opinion as to the cause of appellant's condition. Therefore this report is insufficient to discharge appellant's burden of proof. The remaining reports from Dr. Holsopple are also insufficient as they too fail to address causal relationship.

Dr. Joseph's September 8, 2014 report advised that there was no known injury, but noted that appellant did a lot of standing and walking at work. While he referenced work activities, Dr. Joseph did not provide his own unequivocal opinion as to whether work activities caused appellant's condition.

In an October 14, 2014 disability status report, Dr. Maher took appellant out of work without explanation. His reports do not address activities that caused a diagnosed condition.

Consequently, appellant has submitted insufficient medical evidence to establish her claim.

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.

[7] *Carolyn F. Allen*, 47 ECAB 240 (1995).

[8] Although appellant referenced a prior accepted right foot condition, that issue is not before the Board at this time.

[9] *Thomas D. Petrylak*, 39 ECAB 276 (1987).

[10] *See Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962).

[11] *See Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer an opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish an occupational disease due to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the October 23, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 13, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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