

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

S.T., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Iowa Falls, IA, Employer**

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**Docket No. 17-1105
Issued: September 15, 2017**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 26, 2017 appellant filed a timely appeal from a January 6, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish a right foot/toe injury causally related to the accepted October 6, 2016 employment incident.

FACTUAL HISTORY

On October 26, 2016 appellant, then a 24-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 6, 2016 she sustained a right foot fracture (greater toe) and capsulitis due to jamming her foot on a stump. She did not stop work.

¹ 5 U.S.C. § 8101 *et seq.*

By letter dated November 24, 2016, OWCP informed appellant that the evidence of record was insufficient to establish her claim. Appellant was advised regarding the medical and factual evidence required to support her claim. OWCP afforded her 30 days to provide this information.

Evidence was received from appellant subsequent to OWCP's request for additional information.

Appellant submitted several disability notes from Dr. Scott M. Donohue, a treating podiatrist, and Dr. Orville Jacobs, a treating osteopath specializing in family medicine. Dr. Jacobs, in an October 11, 2016 disability note, requested that appellant be released from work from October 9 to 25, 2016. In an October 25, 2016 disability note, Dr. Donohue restricted her to three hours of standing/walking using her cast boot. He reported that appellant was unable to return to work in the disability notes dated October 26 and November 12, and 22, 2016. In a December 13, 2016 disability note, Dr. Donohue released her to return to four hours of work on December 19, 2016.

On October 25, 2016 Dr. Donohue noted that appellant was seen for right foot and big toe pain. Appellant related that she walked up to 18 miles per day and had experienced pain and swelling in her foot for a few weeks. She related that she stubbed her toe on a tree stump or limb. Dr. Donohue described appellant's examination findings and diagnosed capsulitis due to overuse of the right foot.

OWCP also received a November 18, 2016 authorization for examination and treatment (Form CA-16) from the employing establishment's postmaster, noting an injury date of October 6, 2016 and that appellant had tripped over a stump. The postmaster approved treatment for the effects from the incident.

In a November 22, 2016 report, Dr. Donohue noted that appellant was seen for a follow-up visit for a right foot stress fracture. He provided examination findings and noted that she remained off work in a cast boot. Appellant complained of swelling and significant pain at the end of the day. Dr. Donohue diagnosed capsulitis due to overuse of the right foot.

Dr. Donohue, in a December 13, 2016 report, provided examination findings and diagnosed capsulitis and right foot strain and sprain. He noted that on December 16, 2016 appellant was released to return to work with restrictions for four hours per day.

In a December 21, 2016 attending physician's report (Form CA-20), Dr. Donohue reported that on October 6, 2016 appellant stubbed her toe on a tree stump or limb. He noted October 25, 2016 as the date he first examined appellant and noted subsequent dates of treatment.

By decision dated January 6, 2017, OWCP denied appellant's traumatic injury claim. It found that the evidence of record failed to establish a causal connection between the diagnosed foot condition and the accepted October 6, 2016 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.⁵ First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.⁶ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁸ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the work incident.⁹ 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, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident.¹⁰

ANALYSIS

Appellant alleged that she sustained a right foot/toe injury due to jamming her foot on a tree stump while in the performance of duty on October 6, 2016. OWCP found the evidence

² *Id.*

³ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁴ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

⁶ *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁷ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 3.

⁸ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

⁹ *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

sufficient to establish that the incident occurred as alleged, but found the medical evidence insufficient to establish that the diagnosed conditions were causally related to the October 6, 2016 accepted employment incident.

The Board finds that appellant has failed to meet her burden of proof to establish a traumatic injury causally related to the accepted employment incident.

In support of her claim appellant submitted various reports from Dr. Donohue covering the period October 25 to December 13, 2016. In an October 25, 2016 report, Dr. Donohue noted that appellant walked up to 18 miles a day and that she stubbed a toe on a tree limb or stump. He provided examination findings in the November 22 and December 13, 2016 reports and noted diagnoses of right foot capsulitis due to overuse capsulitis and right foot strain and sprain. In the October 25 and November 22, 2016 reports, Dr. Donohue attributed appellant's right foot condition to overuse without any further explanation. Medical opinion evidence should reflect a correct history and offer a medically sound explanation of how the specific employment incident physiologically caused injury.¹¹ The Board has found that medical evidence which fails to offer an opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹² None of Dr. Donohue's reports attribute the diagnosed conditions to the accepted October 6, 2016 work incident. Thus, these reports from Dr. Donohue are insufficient to establish appellant's claim.

Appellant also submitted an October 11, 2016 disability note from Dr. Jacobs, disability notes from Dr. Donohue with work restrictions, and a Form CA-20 dated December 21, 2016 from Dr. Donohue noting an injury date of October 6, 2016. However, these reports are also insufficient to support appellant's claim as they contained no diagnosis or opinion on causal relationship.¹³

The record before the Board is without rationalized medical evidence establishing that appellant's right foot conditions are causally related to the accepted October 6, 2016 work incident. OWCP advised her that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, history of treatment, and the physician's opinion, with medical reasons, on the cause of her condition.¹⁴ Appellant failed to submit appropriate medical documentation in response to OWCP's request.

The Board notes however, that the record does not verify that the issue of appellant's incurred medical expenses has been addressed. The record contains an undated CA-16 form noting an October 6, 2016 injury date and signed by postmaster, authorizing medical treatment. Ordinarily, where the employing establishment authorizes treatment of a job-related injury by

¹¹ *T.E.*, Docket No. 16-1090 (issued February 24, 2017).

¹² *R.E.*, Docket No. 10-0679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007); *Ellen L. Noble*, 55 ECAB 530 (2004).

¹³ *A.D.*, 58 ECAB 159 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹⁴ *Supra* note 3.

providing the employee a properly executed CA-16 form,¹⁵ OWCP is under contractual obligation to pay for the medical treatment.¹⁶ Upon return of the case record, this matter should be addressed.

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

The Board finds that appellant has not met her burden of proof to establish a right foot/toe injury causally related to the accepted October 6, 2016 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 6, 2017 is affirmed.

Issued: September 15, 2017
Washington, DC

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

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

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

¹⁵ See *Val D. Wynn*, 40 ECAB 666 (1989); see also Federal (FECA) Procedure Manual, Part 3 -- Medical, *Authorizing Examination and Treatment*, Chapter 3.300.3(a)(3) (February 2012).

¹⁶ 5 U.S.C. § 8103; 20 C.F.R. § 10.304. See *L.B.*, Docket No. 10-0469 (issued June 2, 2010); see also *id.* at Chapter 3.300.3(a)(3) (February 2012).