



## **FACTUAL HISTORY**

On March 20, 2014 appellant then a 48-year-old supervisory transportation security officer, filed an occupational disease claim (Form CA-2) asserting that she developed plantar fasciitis and tendinitis as a result of performing her work duties which included prolonged standing and walking to checkpoints within the airport. She first became aware of her condition on January 18, 2014. Appellant stopped work on April 30, 2014 and returned to work part-time limited duty on May 26, 2014 and worked intermittently until October 4, 2014.

Appellant was treated by Dr. Augustine A. Bollo, a podiatrist, from January 23 to September 8, 2014, for work-related bilateral foot injuries. Dr. Bollo diagnosed strain of muscle or tendon of bilateral lower legs, bilateral Achilles tendinitis and bilateral plantar fasciitis. He noted that conservative treatment had failed and recommended surgery. On April 30, 2014 Dr. Bollo performed plantar fasciotomies on both feet.

On September 24, 2014 Dr. Bollo performed repeat bilateral endoscopic plantar fasciotomies as well as bilateral tarsal tunnel decompression, and bilateral decompression of medial and lateral plantar nerves. He diagnosed bilateral plantar fasciitis and bilateral tarsal tunnel syndrome. In a return to work slip dated September 22, 2014, Dr. Bollo noted that appellant could return to work on October 13, 2014 with restrictions of limited walking and standing no more than 30 minutes. On October 6, 2014 he diagnosed plantar fasciitis and tarsal tunnel syndrome bilaterally. Dr. Bollo noted that appellant's plantar fasciitis was caused by consistent excessive pressure resulting in chronic inflammation and abnormal thickening. He noted that prolonged standing resulted in abnormal nerve pressure and tarsal tunnel. Dr. Bollo opined that appellant's present conditions were work related and caused by excessive standing and walking in her job. OWCP had initially denied her claim, but on January 9, 2015, it accepted bilateral Achilles tendinitis and bilateral tarsal tunnel syndrome.

In encounter notes dated January 27 to February 23, 2015, Dr. Bollo treated appellant for left tinea pedis, bilateral tarsal tunnel syndrome, bilateral mononeuritis of the lower limb, Achilles tendinitis, plantar fasciitis, and strain of the muscle or tendon of the lower leg. In a report dated January 27, 2015, he treated her for burning and throbbing foot pain, swelling of the right ankle, tenderness of the medial, lateral and gutter ankle, and bilateral tenderness of the tibialis, and the spring ligament. Dr. Bollo diagnosed bilateral tarsal tunnel syndrome, postoperative decompression, and bilateral plantar fasciitis. He advised that appellant could resume sedentary work, with limited walking and standing. In a February 3, 2015 return to work slip, Dr. Bollo noted that she could return to work on February 9, 2015 in a sedentary position and wear an ankle brace with an open toe shoe.

On February 4, 2015 the employing establishment offered appellant a limited-duty job as a supervisory transportation security officer, effective February 9, 2015. The job duties included recurrent/certified training for a maximum of eight hours a day, online learning center activities for a maximum of two hours a day, and administrative and clerical duties for a maximum of eight hours a day. The position was in conformance with Dr. Bollo's February 3, 2015 restrictions of no walking or standing, no squatting or kneeling, no climbing stairs or ladders, no bending or stooping. Appellant accepted the position.

In a report dated February 9, 2015, Dr. Bollo treated appellant for severe burning and throbbing foot pain and back pain which presented abruptly after she had been sitting for eight hours. He noted tenderness of the medial, lateral and gutter ankle, tenderness of the spring ligament, retrocalcaneal bursa, and decreased strength. Dr. Bollo diagnosed bilateral tarsal tunnel syndrome postoperative decompression and bilateral Achilles tendinitis. He advised that due to the increased pain and difficulty walking appellant was off work until the following week. In a report dated February 17, 2015, Dr. Bollo treated her for burning and throbbing foot pain but noted improvement since she had been off work. He noted positive findings and diagnosed bilateral tarsal tunnel syndrome, postoperative decompression, and bilateral Achilles tendinitis. Dr. Bollo advised that appellant could resume modified sedentary work on February 23, 2015.

Appellant submitted Form CA-7, claims for compensation, for total disability for the period April 20, 2014 to February 7, 2015 and for the period February 8 to 21, 2015. In attached time analysis forms, she noted that on February 8, 2015 the employing establishment could not accommodate her restrictions and from February 10 to 21, 2015, her physician had taken her off work. Appellant worked eight hours on February 9, 2015.

In a letter dated March 24, 2015, OWCP requested that appellant submit medical evidence to establish that total disability was due to the accepted condition for the periods claimed.

The employing establishment submitted a statement dated February 12, 2015 from Tiffany Smith, a training specialist, who noted that on February 9, 2015 appellant reported to the training department and was assigned to complete her pending online learning courses. Ms. Smith met with appellant regarding her schedule while with the training department and advised appellant that she would need to change her shift from 0500 to 1330 to 0400 to 1230. Appellant noted that the 0500 to 1330 shift had been assigned as an accommodation and that she could not change her shift. She further inquired about obtaining CA-7 forms. Appellant began to cry and stated that she was having pain in her foot and the pain was radiating up her leg to her back. She stayed at the airport until her husband arrived. Appellant called Ms. Smith and indicated that pursuant to her physician's order she would not be returning to work until after February 17, 2015 when she would be reevaluated by her physician.

Appellant submitted claims for compensation for total disability (Form CA-7) for the period November 2, 2014 to February 7, 2015. The record reveals that OWCP paid compensation for total disability from November 21, 2014 to February 7, 2015.

Appellant underwent an electromyogram on March 23, 2015 which revealed motor delays in the lateral plantar nerve and sensory delays in the sural nerve. In a report dated March 23, 2015, Dr. Bollo noted treating her for left tinea pedis, bilateral tarsal tunnel syndrome, bilateral mononeuritis of the lower limb, Achilles tendinitis plantar fasciitis, and strain of the muscle and or tendon of the lower leg.

In a decision dated May 12, 2015, OWCP denied appellant's claim for compensation for the period beginning February 8 to 21, 2015.

On May 19, 2015 appellant requested reconsideration. She submitted reports from Dr. Bollo dated February 20 to March 23, 2015, previously of record. Appellant submitted a March 9, 2015 encounter note from Dr. Bollo who treated her for left tinea pedis, bilateral tarsal tunnel syndrome, bilateral mononeuritis of the lower limb, Achilles tendinitis, plantar fasciitis, and strain of the muscle and or tendon of the lower leg. Dr. Bollo advised that she showed steady progress with the current strengthening program. On April 27, 2015 he noted having treated appellant since January 23, 2014. Dr. Bollo indicated that she had bilateral tarsal tunnel surgery in 2014 and continued to have pain and weakness in both legs. He indicated that due to appellant's chronic kidney disease she could not be treated with medications or injections. Dr. Bollo noted that she worked at an airport and walked a distance to get to her job. Appellant reported having problems walking short distances which placed additional stress on the affected areas. Dr. Bollo noted her condition had not changed and her previous restrictions regarding walking remained in place. In a duty status report dated April 27, 2015, he noted clinical findings of tarsal tunnel pain. Dr. Bollo noted that appellant could return to work full time with restrictions.

On May 22, 2015 the employing establishment offered appellant a limited-duty job as a supervisory transportation security officer. The position was in conformance with the medical restrictions set forth by Dr. Bollo on April 27, 2015.

Appellant submitted several CA-7 forms, claims for compensation, for total disability for the period March 9 to June 15, 2015. The record reveals that compensation for temporary total disability was paid from March 9 to June 15, 2015.

Appellant submitted a May 29, 2015 report from Dr. Bollo who treated her for burning and throbbing foot pain. Dr. Bollo noted findings and diagnosed bilateral tarsal tunnel syndrome. He recommended that appellant wear an ankle brace and return to modified duty. A functional capacity evaluation was performed on June 19, 2015, which determined that she was able to perform a minimum of sedentary duties. The physical therapist noted that appellant terminated most activities due to increased subjective pain. It was further noted that there were inconsistencies throughout the testing that blurred test results and that indicated a sub maximum effort. The physical therapist noted that based on self-limiting results no formal recommendations could be made.

In a decision dated June 24, 2015, OWCP denied modification of the decision dated May 12, 2015.

### **LEGAL PRECEDENT**

A claimant has the burden of proving by a preponderance of the evidence that he or she is disabled for work as a result of an accepted employment injury and submit medical evidence for each period of disability claimed.<sup>3</sup> Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues.<sup>4</sup> The issue of

---

<sup>3</sup> See *Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>4</sup> *Id.*

whether a particular injury causes disability for work must be resolved by competent medical evidence.<sup>5</sup> To meet this burden, a claimant must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting a causal relationship between the alleged disabling condition and the accepted injury.<sup>6</sup>

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so, would essentially allow an employee to self-certify his or her disability and entitlement to compensation. For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for work as a result of the accepted employment injury.<sup>7</sup>

### ANALYSIS

OWCP accepted appellant's claim for bilateral Achilles tendinitis and bilateral tarsal tunnel syndrome. Appellant stopped work on April 30, 2014 and returned to work part-time limited duty on May 26, 2014 and worked intermittently until October 4, 2014. The record reflects that appellant was paid temporary total disability compensation from November 2, 2014 to February 7, 2015. On February 4, 2015 the employing establishment offered appellant a limited-duty job as a supervisory transportation security officer, effective February 9, 2015. The position was in conformance with the medical restrictions set forth by Dr. Bollo on February 3, 2015. Appellant stopped work on February 8, 2015 and claimed wage-loss compensation for total disability from February 8 to 21, 2015. The Board finds that the medical evidence is insufficient to establish that period of total disability beginning February 8 to 21, 2015 was caused or aggravated by the accepted conditions.

In the February 9, 2015 report, Dr. Bollo treated appellant for severe burning and throbbing foot pain and back pain which presented abruptly after she had been sitting for eight hours. He noted positive findings on examination and diagnosed bilateral tarsal tunnel syndrome, postoperative decompression, and bilateral Achilles tendinitis. Dr. Bollo advised that due to the increased pain and difficulty walking appellant was off work for a week. In a report dated February 17, 2015, he treated her for burning and throbbing foot pain which improved while she was off work. Dr. Bollo noted no changes in the physical examination from the last examination and diagnosed bilateral tarsal tunnel syndrome, postoperative decompression and bilateral Achilles tendinitis. He advised that appellant could resume modified sedentary work on February 23, 2015. While Dr. Bollo indicated that she was totally disabled until February 23, 2015 he did not specifically explain how any accepted condition caused or contributed to the period of disability beginning February 8, 2015. As noted, part of appellant's burden of proof includes submitting rationalized medical evidence which supports a causal relationship between

---

<sup>5</sup> See *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>6</sup> *C.S.*, Docket No. 08-2218 (issued August 7, 2009).

<sup>7</sup> *Sandra D. Pruitt*, 57 ECAB 126 (2005).

the period of disability and the accepted injury.<sup>8</sup> Therefore, these reports are insufficient to meet her burden of proof.

In a February 3, 2015 return to work slip, Dr. Bollo noted that appellant could work in a sedentary position on February 9, 2015 and wear an ankle brace with an open toe shoe. This report is of no value in establishing the claimed period of disability since he supported that she could return to work in a sedentary position on February 9, 2015.

Other reports from Dr. Bollo are of limited probative value as he did not specifically address the causal relationship between appellant's accepted conditions and the claimed period of disability. He did not explain how any disability from February 8 to 21, 2015 was employment related. Thus, these reports are insufficient to establish the claim.

On appeal appellant asserts that she had submitted sufficient medical evidence to support the claimed period of disability. As noted above, the Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. The Board notes that appellant failed to submit rationalized medical evidence which supported a causal relationship between the period of disability and the accepted injuries.

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 failed to establish disability for the period beginning February 8 to 21, 2015 causally related to the accepted employment injury.

---

<sup>8</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 24, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 28, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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