United States Department of Labor
Employees' Compensation Appeals Board

C.L., Appellant	)	
and	)	**Docket No. 16-1078**
	)	**Issued: October 21, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Milwaukee, WI, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 26, 2016 appellant filed a timely appeal from a March 25, 2016 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.[2]

ISSUE

The issue is whether appellant met her burden of proof to establish a left foot condition causally related to factors of her federal employment.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant submitted additional evidence to OWCP after the March 25, 2016 decision was issued. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, the Board lacks jurisdiction to review this additional evidence. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On January 19, 2016 appellant, then a 53-year-old supervisory distribution operator, filed an occupational disease claim (Form CA-2) alleging a left foot condition due to factors of her federal employment. In a narrative statement she indicated that she noticed swelling and sharp pains in her left foot in November 2015. Appellant stated that her duties included walking two to four miles per night on concrete floors.

In a January 12, 2016 report, Dr. Christine Reardon, a podiatrist, noted that appellant was utilizing a controlled ankle movement (CAM) walker boot for her left foot and ankle. She advised that appellant was allowed to work with restrictions on excessive walking until her next appointment on February 1, 2016.

In a February 5, 2016 letter, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

In response, appellant submitted a January 31, 2016 statement reiterating that her position required excessive walking and standing on concrete floors. She stated that she was required to stand up to four hours and walk three to five miles intermittently per night to check various mail sorting machines. Appellant explained that the CAM walker boot helped with her left foot pain, but the pain returned when she tried to walk without it.

In reports dated January 7 through February 12, 2016, Dr. Reardon documented that appellant presented with left foot and ankle pain. Appellant complained of a constant pain in the medial aspect of her left heel and ankle and related evidence of post-static dyskinesia. Dr. Reardon indicated that appellant's medical doctor had been consulted regarding appellant's pathology and x-rays were found to be negative for any osseous changes. She diagnosed left foot pain and posterior tibial (PT) tendinitis, edema in the medial aspect of the left ankle, abnormal gait with over pronation, and *pes planus* foot structure, left worse than right.

In a January 20, 2016 attending physician's report (Form CA-20), Dr. Reardon reiterated her diagnosis of PT tendinitis of the left foot and concluded that there was "no employment injury" and "no history of injury at work," but walking exacerbated her condition.

On February 3, 2016 Dr. Reardon opined that appellant's PT tendinitis of the left ankle was "secondary to over use and because of her ambulation with a flat foot." She explained that increasing ambulation with a pronated stance and *pes planus* foot structure did tend to cause increasing tension and pull to the PT tendon, which could then cause it to become weak, inflamed, and dysfunctioning. Dr. Reardon noted that appellant's pathology was being exacerbated by her weight-bearing ambulation at work. She opined that while appellant's condition was not solely caused by her work environment, it was "being exacerbated because of having to be on her feet on very hard surfaces." In a February 4, 2016 duty status report (Form CA-17), Dr. Reardon noted that appellant's left foot injury occurred over time and advised that she was able to work with the following restrictions: stand intermittently for seven hours per day and walk intermittently for five hours per day.

On February 12, 2016 Dr. Reardon reviewed a magnetic resonance imaging (MRI) scan of the left foot and found "heterogeneous appearance of the anterior tibiofibular ligament concerning for a prior injury." She explained that the MRI scan also showed a slightly heterogeneous syndesmotic ligament and a slightly diminutive posterior tibiofibular ligament, which were all possibly related to a prior injury. Dr. Reardon diagnosed osteochondral abnormality of the left ankle, Achilles tendinosis with likely partial minimal tearing, and focal herniation of the tibial nerve through flexor retinaculum. She related explaining to appellant in detail that Dr. Reardon did not believe that her work caused the diagnosed conditions but that being on her feet could exacerbate the pathology. Dr. Reardon recommended continued use of the CAM walker boot and a secondary surgical consultation.

In a March 3, 2016 report, Dr. Jeffrey Hall, a podiatrist, diagnosed osteochondral defect of the left ankle, left foot pain, *pes planus* of the left foot, PT tendinitis of the left leg, and tarsal tunnel syndrome, left. A physical examination revealed pain centered at the level of the tarsal tunnel area and the medial aspect of the foot/ankle. Pain along the course of the posterior tibial tendon was noted as well. There was severe pronation of the foot bilaterally and no significant pain or crepitus with ankle joint range of motion. Dr. Hall recommended continued use of the CAM walker boot and dispensed a lace-up type ankle brace to be utilized in lieu of the boot in the event that appellant's symptoms improved. He also provided a prescription for custom orthotics. Dr. Hall opined that treatment was unnecessary for the ankle osteochondral lesion because appellant was asymptomatic, but discussed possible cortisone injections in that area. He further opined that appellant's symptoms were consistent with chronic biomechanical stresses, "[m]ost likely exacerbated/aggravated" by her job requirement of standing and walking on hard concrete surfaces.

By decision dated March 25, 2016, OWCP denied the claim as the medical evidence failed to establish a causal relationship between appellant's condition and factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of 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 of FECA, and that an injury[3] was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (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

[3] OWCP regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

[4] *See O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

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.[5]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. 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 factors identified by the employee.[6]

ANALYSIS

The Board finds that appellant failed to meet her burden of proof to establish that federal employment factors caused or aggravated her left foot condition. Appellant identified the factors of employment that she believed caused the condition, including walking and standing on concrete floors at work, which OWCP accepted as factual. However, in order to establish a claim for an employment-related injury, she must also submit rationalized medical evidence which explains how her medical condition was caused or aggravated by the implicated employment factors.[7]

In her reports, Dr. Reardon diagnosed PT tendinitis, edema in the medial aspect of the left ankle, abnormal gait with overpronation, *pes planus* foot structure, left worse than right, osteochondral abnormality of the left ankle, Achilles tendinosis with likely partial minimal tearing, and focal herniation of the tibial nerve through flexor retinaculum. In a January 20, 2016 attending physician's report (Form CA-20), she reiterated her diagnosis of PT tendinitis of the left foot and stated that there was "no employment injury" and "no history of injury at work," but walking exacerbated her condition. On February 3, 2016 Dr. Reardon opined that appellant's PT tendinitis of the left ankle was "secondary to over use and because of her ambulation with a flat foot." She explained that appellant's pathology was being exacerbated by her weight-bearing ambulation at work. Dr. Reardon opined that while appellant's condition was not solely caused by her work environment, it was "being exacerbated because of having to be on her feet on very hard surfaces." She explained to appellant that she did not believe her work caused the diagnosed conditions but that being on her feet could have exacerbated the pathology. Despite her generalized opinion of causation, Dr. Reardon failed to provide a rationalized opinion explaining how the accepted factors of appellant's federal employment, such as walking and standing on concrete floors at work, could have caused or aggravated her left foot condition. She noted that appellant's condition occurred while she was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how her physical activity at work actually

[5] *See D.R.*, Docket No. 09-1723 (issued May 20, 2010).

[6] *See O.W.*, *supra* note 4.

[7] *See A.C.*, Docket No. 08-1453 (issued November 18, 2008).

caused or aggravated the diagnosed conditions.[8] The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between appellant's condition and her employment factors.[9] Thus, the Board finds that Dr. Reardon's reports are insufficiently rationalized to establish that appellant's condition was caused or aggravated by the accepted factors of her federal employment.

In a March 3, 2016 report, Dr. Hall diagnosed osteochondral defect of the left ankle, *pes planus* of the left foot, PT tendinitis of the left leg, and left tarsal tunnel syndrome and opined that appellant's symptoms were consistent with chronic biomechanical stresses. The Board finds that Dr. Hall failed to provide a rationalized opinion explaining how walking and standing on concrete floors caused or aggravated appellant's left foot conditions. The Board further finds that Dr. Hall's opinion that appellant's conditions were "[m]ost likely exacerbated/aggravated" by her job requirement of standing and walking on hard concrete surfaces is speculative and equivocal in nature.[10] He too fails to provide a supportive rationale as to how and why the accepted employment duties performed by appellant were sufficient to cause or aggravate the diagnosed medical conditions. For these reasons, the Board finds that Dr. Hall's report is insufficient to establish that appellant sustained an employment-related injury.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the accepted employment factors, she failed to meet her burden of proof to establish a 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a left foot condition causally related to factors of her federal employment.

[8] *See K.W.*, Docket No. 10-98 (issued September 10, 2010).

[9] *See Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[10] Medical opinions that are speculative or equivocal in character are of little probative value. *See Kathy A. Kelley*, 55 ECAB 206 (2004).

ORDER

IT IS HEREBY ORDERED THAT the March 25, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 21, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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