

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

---

**R.T., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Jersey City, NJ, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 15-356  
Issued: May 18, 2015**

*Appearances:*  
*James D. Muirhead, 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  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On November 24, 2014 appellant, through counsel, filed a timely appeal of the July 18, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 has met his burden of proof to establish an occupational disease affecting his right foot in the performance of duty.

**FACTUAL HISTORY**

On May 10, 2012 appellant, then a 45-year-old city carrier, filed a Form CA-2, occupational disease claim, alleging that he developed osteoarthritis and arthralgia of the foot as

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

a result of prolonged standing, walking, and stair climbing required in his job as a carrier. He did not stop work.

Appellant was treated by Dr. Francis Rossi, a podiatrist, on August 6, 2012 for painful great toe worsening with walking. He noted examination findings of severe pain of the first metatarsal phalangeal joint with restricted range of motion and inflammation around the joint. Dr. Rossi noted x-rays revealed osteoarthritis of the first metatarsal phalangeal joint of the right foot and diagnosed osteoarthritis of the first metatarsal phalangeal joint of the right foot/hallux rigidus. He noted appellant's condition was aggravated by employment because of repetitive weight bearing and motion through the first metatarsal phalangeal joint while walking long distances and climbing stairs. In a certificate of health care provider dated August 6, 2012, Dr. Rossi noted appellant's condition commenced on May 10, 2012 and that he was unable to walk for prolonged periods due to his condition. He diagnosed osteoarthritis of the first metatarsal phalangeal joint or hallux rigidus of the right foot causing inflammation of the joint. Dr. Rossi recommended surgery and advised that appellant would not be able to work from September 15 to November 15, 2012.

In a letter of contravention dated August 23, 2012, the employing establishment challenged appellant's claim noting that the medical evidence did not provide a complete history and that he had not reported all activities that may have played a role in the development of his condition.

On September 20, 2012 OWCP advised appellant of the type of evidence needed to establish his claim. It particularly requested that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific work factors.

In a November 19, 2012 decision, OWCP denied the claim as the medical evidence was insufficient to establish that the claimed condition was causally related to his employment.

On December 17, 2012 appellant requested reconsideration. He submitted a December 17, 2012 report from Dr. Rossi who offered clarification of the causal relationship between osteoarthritis of the first metatarsal phalangeal joint and walking 10 miles a day. Dr. Rossi noted that osteoarthritis was known as wear and tear arthritis as stress from excessive daily activities has a direct effect on the development or exacerbation of this condition. He noted that there was a direct effect between appellant's work and his medical condition of hallux rigidus/osteoarthritis of the first metatarsal phalangeal joint of the right foot.

In a decision dated February 28, 2013, OWCP denied modification of the decision dated November 19, 2012.

On September 17, 2013 appellant requested reconsideration. He submitted reports from Dr. Rossi dated August 6 and December 17, 2012, previously of record.

In a decision dated December 11, 2013, OWCP denied modification of the decision dated February 28, 2013.

On April 9 and June 26, 2014 appellant requested reconsideration. He submitted an undated report from Dr. Rossi, who noted that appellant worked as a letter carrier for over 20

years walking approximately 10 miles daily. Dr. Rossi noted that over time appellant developed painful debilitating osteoarthritis of the first metatarsal phalangeal joint commonly referred to as hallux/rigidus/limitus which required surgery. He noted that the daily stress through the foot joints with this amount of walking is known to cause and or exacerbate arthritis in the big toe joint. Further medical literature points to repetitive trauma from walking as the cause of hallux rigidus or arthritis in the big toe joint.

In a decision dated July 18, 2014, OWCP denied modification of the December 11, 2013 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place, and in the manner alleged. Appellant must also establish that such event, incident or exposure caused an injury.<sup>2</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.<sup>3</sup>

### **ANALYSIS**

It is not disputed that appellant's work duties as a city carrier included prolonged standing, walking, and stair climbing. On September 20, 2012 OWCP advised him of the type of

---

<sup>2</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Solomon Polen*, 51 ECAB 341 (2000).

medical evidence needed to establish his claim. However, appellant has not submitted sufficient medical evidence to establish that any of these conditions are causally related to specific employment factors or conditions.

Appellant submitted an August 6, 2012 report from Dr. Rossi, who diagnosed osteoarthritis of the first metatarsal phalangeal joint of the right foot/hallux rigidus. Dr. Rossi noted that the condition was aggravated by employment because of repetitive weight bearing and motion through the first metatarsal phalangeal joint while walking long distances and climbing stairs. On December 17, 2012 he offered clarification of his opinion on causal relationship between osteoarthritis and walking 10 miles a day. Dr. Rossi noted that osteoarthritis was known as wear and tear arthritis as stress from excessive daily activities had a direct effect on the development or exacerbation of this condition. He noted that there was a direct effect between appellant's work and his medical condition of hallux rigidus/osteoarthritis of the first metatarsal phalangeal joint of the right foot. Similarly, in an undated report, Dr. Rossi noted that appellant worked as a letter carrier for over 20 years walking about 10 miles daily. He stated that over time appellant developed painful debilitating osteoarthritis of the first metatarsal phalangeal joint commonly referred to as hallux/rigidus/limitus which required surgery. Dr. Rossi noted the daily stress through the foot joints with this amount of walking is known to cause and or exacerbate arthritis in the big toe joint. He noted medical literature pointed to repetitive trauma from walking as a cause of hallux rigidus or arthritis in the big toe joint. The Board finds that, although Dr. Rossi supported causal relationship, he did not provide medical rationale explaining the basis of the medical opinion regarding the causal relationship between appellant's osteoarthritis of the first metatarsal phalangeal joint and the factors of employment.<sup>4</sup> For example, Dr. Rossi did not explain the process by which walking for prolonged distances and periods of time would cause the diagnosed condition and why such condition would not be due to any nonwork factors such as age-related degenerative changes. Therefore, these reports are insufficient to establish appellant's claim.

In a certificate of health care provider dated August 6, 2012, Dr. Rossi noted appellant's condition commenced on May 10, 2012. He diagnosed osteoarthritis of the first metatarsal phalangeal joint or hallux rigidus of the right foot causing inflammation of the joint and noted appellant was unable to walk for prolonged periods due to his condition. Dr. Rossi recommended surgical intervention. However, these notes do not provide a history of injury<sup>5</sup> or offer an opinion on how appellant's employment could have caused or aggravated his condition.<sup>6</sup>

The remainder of the medical evidence, including reports of diagnostic testing are insufficient to establish the claim as they fail to provide an opinion on the causal relationship between appellant's job and his diagnosed conditions.

---

<sup>4</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).

<sup>5</sup> See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history).

<sup>6</sup> *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

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 did not meet his burden of proof to establish an occupational disease in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 18, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 18, 2015  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board