

**U.S. Department of Labor**

Employment Standards Administration  
Office of Workers' Compensation Programs  
Division of Federal Employees' Compensation  
Washington, D.C. 20210



File Number:

File Number: ---  
Employee: ---

Dear Mr. . . .

This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A hearing was held on . . . . . Based upon that hearing, it has been determined that the decision of the District Office should be **reversed** as outlined in the attached decision.

Future correspondence should be addressed to: U.S. Department of Labor, Office of Workers' Compensation Programs, 214 North Hogan Street, Suite 1006, Jacksonville, FL 32202.

Sincerely,

Hearing Representative ext

US POSTAL SERVICE  
HINESVILLE UNIT  
INJURY COMP SUPV  
2 NORTH FAHM STREET  
SAVANNAH GA 31401

PAUL H. FELSER ESQ  
PO BOX 9087  
SAVANNAH, GA. 31412

CXQ

HR12

U.S. Department of Labor  
Office of Workers' Compensation Programs

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DECISION OF THE HEARING REPRESENTATIVE

In the matter of the claim for compensation under Title 5, U.S. Code 8101 et seq. of \_\_\_\_\_ claimant; employed by the \_\_\_\_\_ Case No.: \_\_\_\_\_ hearing was held on \_\_\_\_\_ in Atlanta, Georgia.

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The issue for determination is whether the claimant sustained an occupational disease injury, as alleged.

Robert Delafchell, born \_\_\_\_\_, was employed as a Letter Carrier by the \_\_\_\_\_.

He filed a Notice of Occupational Disease indicating that he was suffering from a left ankle condition, which he felt stemmed from his employment requirements. By decision dated \_\_\_\_\_, the district office rejected Mr. \_\_\_\_\_ claim on the basis that he failed to establish the occurrence of an injury within the meaning of the Act. The claimant disagreed with that decision and requested a hearing before an Office representative.

Pursuant to the claimant's request, a hearing was held in Atlanta, Georgia on \_\_\_\_\_. Mr. \_\_\_\_\_ appeared at the scheduled hearing, where he was represented by Attorney Paul Felser. At the outset of the hearing, Mr. Felser identified the employment activities to which the development of Mr. \_\_\_\_\_ ankle condition was attributed. He indicated that the claimant is required to mount and dismount his postal vehicle repeatedly throughout the course of a normal workday. After identifying the employment factors cited as the cause of Mr. \_\_\_\_\_ condition, Mr. Felser proceeded to address the medical evidence. He produced a medical report authored by Dr. \_\_\_\_\_, where the claimant's history of a service-connected injury to his left ankle was documented. The documents were marked and made part of the record, after which the hearing was adjourned.

As required by Office procedures, a copy of the hearing transcript was forwarded to the employing agency to afford them the opportunity to comment on the claimant's testimony. No such

comments have been received and this matter is now in posture for a decision.

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

1. Medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;
2. A 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 employee were the proximate cause of the condition for which compensation is claimed. The medical evidence required to establish a causal relationship is evidence that includes a physician's opinion as to whether there is a relationship between the claimed condition and the implicated employment factors. Such an opinion must be based upon 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 two.<sup>1</sup>

In the case at hand, the district office appropriately rejected Mr. \_\_\_\_\_ claim because his case file was devoid of an explanation from a qualified medical examiner establishing the link between his employment requirements and the onset of the left ankle symptoms. At the hearing, claimant's counsel introduced a report from Dr. \_\_\_\_\_ wherein he wrote:

"As you know, \_\_\_\_\_ is a \_\_\_\_\_ year old male Postal Carrier who was initially evaluated by me on \_\_\_\_\_. At that time, he had a 3-month history of pain and swelling in his left ankle \_\_\_\_\_ years ago, in \_\_\_\_\_ he injured his left ankle in Vietnam. The problem was misdiagnosed with multiple sprains left ankle as a result. In \_\_\_\_\_ the cause (Thomas Heel) was found, which resulted in a complete cure until \_\_\_\_\_. He has no symptoms at all in his right \_\_\_\_\_

<sup>1</sup> See Victor Woodhands, 41 ECAB, Docket No. 89-1717, issued December 20, 1989.

ankle. He has been a Postal Carrier for six years. He was previously evaluated by Dr. , who noted severe deterioration and arthritis of the left ankle and placed the patient into a fracture brace, which has helped him considerably both on x-ray and MRI, the condition appears to be osteoarthritis with probable synovial chondromatosis. Synovial chondromatosis, of course, would have to be proven by a biopsy to be 100% certain, but this is the most likely diagnosis based on the patient's x-ray and MRI. This is a condition which is not related to the patient's employment, but rather can just develop on its own. I am familiar with Mr. job requirements and have reviewed his job description, as well as reports from his co-workers. There is no question that walking 6-8 miles per day with 150 mounts and dismounts in and out of a vehicle can aggravate the underlying condition and I do understand that this is an important issue regarding causality and aggravating factors. In summary, the patient has suffered a permanent aggravation of the underlying condition by his employment."

As the record currently contains medical opinion evidence establishing that the claimant's underlying condition was permanently aggravated by his Letter Carrier duties, I find that Mr. has established the occurrence of an occupational disease injury. The decision of the district office dated is therefore REVERSED and the claim accepted for a permanent aggravation of synovial chondromatosis, left ankle.

DATED: APR 3 1970  
WASHINGTON, D.C.

Hearing Representative  
For  
Director, Office of Workers'  
Compensation Programs