

NOTEWORTHY DECISION SUMMARY

Decision: WCAT-2005-01400 **Panel:** Cynthia J. Katramadakis **Decision Date:** March 21, 2005

Risk Factors for Plantar Fasciitis – Occupational Disease Caused by Nature of Employment – Section 6 of the Workers Compensation Act

This decision is noteworthy as an example of an analysis of the issue of whether a worker's plantar fasciitis is due to the nature of the worker's employment and compensable under section 6 of the *Workers Compensation Act* (Act).

In this case, the worker was a 48 year old cashier and price checker who had worked at the same job for 27 years. The Workers' Compensation Board (Board) denied her claim for compensation for right foot plantar fasciitis, an occupational disease recognized by regulation under the Act, concluding that the worker's employment activities did not demonstrate the presence of significant risk factors for work-related plantar fasciitis. Thus, the plantar fasciitis was not due to the nature of her employment as required by section 6 of the Act. The Review Division confirmed the Board decision. The worker appealed to WCAT, who also confirmed the Board's decision after considering the occupational and non-occupational risk factors listed in the *Activity-Related Soft Tissue Disorder Reference Guide* (Guide). The Guide is produced by the Board but is not binding Board policy.

The WCAT panel found that the worker's plantar fasciitis was not due to the nature of her employment on the basis that:

- The worker was over 40 years old and had a body mass index of more than 25, which are non-occupational risk factors.
- There was no history of direct trauma or unaccustomed work, which are occupational risk factors.
- There was delayed onset of symptoms.
- The worker delayed seeking medical attention for her symptoms.
- The worker's own initial view was that her pain was caused by her shoes or a plantar wart.
- There was little medical evidence that the worker's body mechanics in performing her duties caused her symptoms.

The fact that the worker felt pain when she worked supported the theory that the work activities brought the condition to the worker's attention rather than that the work caused the condition.

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Introduction

The worker, a 48-year-old cashier/price changer, claimed compensation for a plantar fasciitis condition, which she attributed to her work duties. In a November 18, 2003 decision letter, a case manager with the Workers' Compensation Board (Board) denied the claim concluding that the worker's employment activities did not demonstrate the presence of significant risk factors causative of work-related plantar fasciitis.

The worker requested a review of this decision from the Board's Review Division. In a July 12, 2004 decision, a review officer confirmed the Board's prior decision finding that the worker's plantar fasciitis was not due to the nature of her employment as required by section 6 of the *Workers Compensation Act* (Act).

The worker appealed this decision to the Workers' Compensation Appeal Tribunal (WCAT) seeking a finding that her condition was caused by her employment and therefore ought to have been accepted by the Board for the appropriate health care benefits.

The worker is represented in her appeal by the United Food and Commercial Workers Union of BC. The employer, who is participating in the appeal, is represented by McNeil Group Consultants Ltd.

Issue(s)

The issue in this appeal is whether the worker's diagnosed plantar fasciitis was due to the nature of her employment so as to entitle her to establish a claim under section 6 of the Act.

Jurisdiction

Section 239(1) of the Act, as amended, provides that a decision made by a review officer under section 96.2 may be appealed to WCAT. Section 250(1) of the Act allows WCAT to consider all questions of law and fact arising in an appeal, subject to section 250(2), which requires that WCAT apply the relevant Board policy, and make its decision based on the merits and justice of the case.

This is an appeal by way of a rehearing, rather than a hearing *de novo* or an appeal on the record. WCAT has jurisdiction to consider new evidence, and to substitute its own decision for the decision under appeal.

Background and Evidence

The worker is described as being 48-years-old, 5 feet 9 ¼ inches tall, weighing 230 pounds.

On her application for compensation, the worker described that she experienced pain in her right foot, which did not go away. She considered that the period of exposure resulting in the occupational disease spanned from January 2003 to November 2003. Further, she advised that she did not report any work-related problem to the employer until November 12, 2003 citing that she felt the problem stemmed from other reasons.

The application for compensation offered no other details on the work-relatedness of the worker's plantar fasciitis. However, a claim log memo documents further details as described by the worker. She provided the following:

- that she thought the onset of symptoms occurred back in January 2003 which she initially attributed to a plantar wart; however, she had the wart removed and the symptoms persisted.
- that she then thought the condition was due to the fact that in November 2002 she had worked 12 hour days, 5 days per week performing pricing changes. While she denied having symptoms at the time, she later recalled her foot bothering her in January 2003.
- that in the course of her employment, she undertook various postures to perform pricing changes. These varied in heights from just above the floor to just above the shoulder. She confirmed that her duties involved no running or jumping, or standing on ladders with her heels hanging over.
- that she experienced no direct impact to the bottom of her foot/heel, and no specific incident to account for her right foot pain.

The worker first sought treatment for her symptoms on November 10, 2003. She described right heel pain at the plantar aspect, worse with walking on concrete floors at work. The attending physician diagnosed plantar fasciitis.

The employer protested the claim's acceptance on the basis that the worker delayed in reporting the injury and seeking medical attention. The employer also noted on its report of injury form to the Board that the worker had been employed in the capacity of a cashier/pricing changer since 1972.

The case manager then set out reasons for denying the claim in a log memo of November 18, 2003. The case manager noted that the worker's activities involved no force, impact, or unusual strain to the bottom of the right foot. Also, the worker had been performing her regular duties when she first sought medical treatment. Although the worker attributed her condition to the extra hours performing pricing duties in November 2002, the case manager noted that she did not experience an onset of symptoms until January 2003 and still did not seek medical attention until some ten months later.

In support of the worker's review to the Review Division, her attending physician offered the following opinion. He stated that as with most medical problems, the cause of plantar fasciitis was multi-factorial including change in footwear, unusually heavy workload, advancing age and any number of other variables. However, given that the worker's symptoms went away when she stopped working and started again upon resuming work duties, the attending physician considered this represented a 60% likelihood of work causation. He also noted that the worker performed no other activities outside of her employment which would have caused the condition.

The worker also submitted evidence to the Review Division in the form of questions posed to her from her representative. In response to the question for clarification on the delayed onset of symptoms, the worker stated that while doing pricing duties in November 2002, her feet hurt but she also hurt in other places; however, she attributed it to the job duties she was performing, the hours she worked, and the pace in which she worked. She further stated during that time, that she worked two weeks on the night shift; the first week she did 8-hour shifts while the second week she did 12-hour shifts. She stated that after these two weeks, both her feet hurt but only the right foot hurt after January 2003. The worker described that during this two week period of doing only pricing changes she was required to be in a crouched position when changing the labels on the lower shelves. She described that this required her to kneel with her left foot flat on the floor and her right toes on the floor with her right heel extended upwards.

The worker's representative submitted that the worker's description of her body mechanics during this period, along with the excessive hours she worked, placed significant force on her foot thus causing her plantar fasciitis.

However, in the July 12, 2004 Review Division decision, the review officer placed more weight on the following:

- that the worker had been performing the same job for 27 years and had been fully accustomed to her employment tasks;
- that while the worker performed pricing duties exclusively for two weeks in November 2002, the task was not new to her. Normally the worker performed these same duties for 24 hours per week, so the review officer reasoned that the fact she performed pricing changes exclusively for two weeks was not significant;

- that the attending physician's first report, one year later, failed to identify the source of the worker's foot pain;
- that the worker reported having pain in both feet after performing the pricing changes, which was contrary to her evidence that her symptoms were caused by being in a crouched position with the toes of her right foot on the ground and her heel pointing up two inches off the ground;
- that the worker's age and weight were significant non-occupational risk factors for plantar fasciitis; and finally
- that although the worker felt pain in her right foot at work, this was not conclusive evidence that her work actually caused the condition.

In submissions to WCAT, the worker's representative stated, in part, that although the worker did not have problems during the two weeks she was performing pricing changes in November 2002; her evidence was that she had a gradual onset of problems which developed into severe problems in January 2003. The representative noted that while the worker had some non-occupational risk factors, this was not a bar to compensation relying instead on the evidence, which in her opinion, supported that the worker's activities were a significant cause of her right foot plantar fasciitis.

In response, the employer's representative noted that attributing the worker's problems to her employment activities in November 2002, ignored the fact that the onset of foot pain did not occur until January 2003. The representative contended that the worker was clear in her conversation with the case manager that she had no pain in her foot during the two weeks in November 2002 but developed symptoms in January 2003. In the opinion of the representative, the worker's non-occupational risk factors, namely her age, and height/weight ratio, (which equated to a body mass index of 34.0) were significant in the development of her right foot plantar fasciitis.

Reasons and Findings

The worker's injury occurred after June 30, 2002, the transition date for relevant changes to the Act. Entitlement under this claim is adjudicated under the provisions of the Act as amended by Bill 49, the *Workers Compensation Amendment Act, 2002*. WCAT panels are bound by published policies of the Board pursuant to the *Workers Compensation Amendment Act (No. 2), 2002* (Bill 63). The policies relevant to this appeal are set out in the *Rehabilitation Services and Claims Manual, Volume II* (RSCM II).

The Board considered the worker's entitlement to establish a claim for both a personal injury, pursuant to section 5 of the Act, as well as an occupational disease pursuant to section 6 of the Act.

Generally, the Board views conditions that develop over time as occupational diseases, and those that are caused by a trauma or a series of incidents as personal injuries. The worker reported that her right foot plantar fasciitis developed over time and so I therefore find that her claim is properly adjudicated as an occupational disease under section 6 of the Act.

Section 6 of the Act provides that compensation is payable when a worker suffers from an occupational disease that is due to the nature of his/her employment.

Plantar fasciitis is recognized as an occupational disease by regulation under section 1 of the Act. There is very little published policy concerning plantar fasciitis. Policy makes reference only to the fact that it is designated as an occupational disease by regulation of general application.

Although not published policy, the *Activity-Related Soft Tissue Disorder Reference Guide* (Guide) was produced by the Board to provide assistance to adjudicators handling such claims. The Guide addresses plantar fasciitis and the risk factors associated with the condition. Non-occupational risk factors include:

- Age - over the age of 40
- Overweight - body mass index greater than 25
- Foot deformity – flat feet or high instep
- System disorders – systemic lupus erythematosus, rheumatoid arthritis, etc.
- Footwear – inadequate arch support
- Recreational activities – direct trauma or unusual physical strain of the plantar fascia

Occupational risk factors include:

- Direct trauma – e.g. contusion
- Unaccustomed – physical strain of the plantar fascia, e.g. walking or running for prolonged periods, weight bearing on the ball of the foot

The Guide further states that it is thought that prolonged weight-bearing or standing on hard surfaces are more likely to bring the symptoms of plantar fasciitis to the attention of the individual rather than being the cause.

First, I have analysed the worker's condition in relation to the presence of non-occupational risk factors. I note that the worker has some, namely, that she is over 40 years of age, and is 5' 9 ¼" and weighs 230 pounds. This equates to a body mass index (BMI) of 34.0.

With respect to occupational risk factors, I note that there is no history of direct trauma, such as a contusion, to the worker's foot. And, at first blush, there is nothing in her employment activities that had changed; she had performed the same duties for the past 27 years. However, I acknowledge the worker's statement that in November 2002 she worked lengthy hours completing pricing changes. She stated that the performance of these duties involved awkward posture. Therefore, I consider that her evidence on this point requires further analysis in relation to the occupational risk factor of unaccustomed.

The worker described that during two weeks in November 2002 she worked night shifts. These shifts lasted 8 hours per night the first week, and 12 hours per night the second week. She stated that she worked her entire shift without the benefit of regular rest breaks and worked these shifts in rapid succession. She further stated that her sole responsibility during these shifts was to perform pricing changes. She detailed that performing this task involved crouching in a squat position, with her left foot flat on the floor, and her right toes flat on the floor with her heel raised two inches of the ground extending upwards. Such a position would seem to imply that the worker was weight bearing on the ball of her right foot; considered in the Guide as an occupational risk factor. The worker submitted for this reason, she developed plantar fasciitis at this juncture when her work had not produced the condition before.

However, while I accept that the worker was engaged in an activity in November 2002 that may have exposed her to an occupational risk factor for the development of plantar fasciitis, I must weigh the significance of this exposure against other relevant evidence on file.

In this case, I consider it relevant that the worker had a delay in the onset of symptoms. She initially told the Board that she thought she had an onset of symptoms in January 2003. This is consistent with her application of compensation wherein she stated her period of exposure was from January 2003 to November 2003. The worker made no mention on her application of experiencing symptoms as a result of working consecutive shifts for two weeks in November 2002. Though she subsequently told the case manager that she thought her symptoms had to do with her work during those two weeks, she stated that she did not feel any symptoms at the time.

Furthermore, the attending physician's first report of November 10, 2003 makes no reference to the worker's symptoms being related to her duties in November 2002. Rather, the report noted the worker had pain in her right heel worse with walking on concrete floors at work. I note however, that the worker's description of symptom onset has become more detailed with time. For example, in a February 2004 questionnaire she advised that she developed a gradual onset of symptoms dating back to her work duties in November 2002 and described her actual body mechanics during the two weeks she performed pricing duties. I give greater weight to the worker's evidence at the time she submitted her claim for compensation over that provided in her questionnaire in February 2004 as this evidence is more contemporaneous than that

subsequently offered, and it is reported consistently on her application, to the case manager, and to her attending physician.

Additionally, I note that the worker initially thought her right foot symptoms related to a plantar wart. When that was proven not to be the case, she then changed her footwear. What this seems to indicate, at least from my view, is that the worker did not know the exact cause of her symptoms. It would appear, only after her symptoms persisted, did she feel that her condition was related to work, specifically her duties in November 2002. The worker seemed to rely on retroactive speculation that her plantar fasciitis was due to her employment in the absence of another known cause.

Finally, the worker relied upon her attending physician's opinion as medical support that her plantar fasciitis was work related. However, I note that the attending physician's opinion submitted to the Review Division related the worker's condition to her long, hard shifts and walking more than usual. He made no direct reference to the worker's assertion that her body mechanics in performing her duties in November 2002 were the cause of her symptoms. Therefore, the attending physician's opinion that the work was 60% likely to have caused the worker's plantar fasciitis is based on a different mechanism of injury than that offered by the worker. For this reason, I give little weight to the attending physician's opinion.

I have little doubt that the worker experienced right foot pain when she worked, especially during long shifts. However, given the weight of the evidence, the fact that the worker felt pain when she worked would seem to support the theory that the work activities brought the condition to the worker's attention rather than that the work caused the condition.

Conclusion

I confirm the Review Division's July 12, 2004 decision for the following reasons. I find that the worker's right foot plantar fasciitis was not due to the nature of her employment. I deny the worker's appeal.

Expenses were not requested. Nor, can I find where any were undertaken in mounting this appeal. Therefore, none are awarded.

Cynthia J. Katramadakis
Vice Chair

CJK/jd