

On October 10, 2003 appellant, then a 35-year-old full-time regular carrier, sprained her left ankle and sustained a left knee contusion when she fell while delivering mail. The Office accepted the claim for left knee contusion, left ankle sprain, left knee strain and abrasion and a

left knee torn lateral meniscus. It authorized left knee arthroscopic surgery which was performed on December 23, 2005. Appellant returned to limited-duty work on January 3, 2006.

On April 18, 2006 Dr. Steven J. Goldfarb, a treating Board-certified orthopedic surgeon, diagnosed persistent leg pain of unknown etiology. A physical examination revealed no effusion, no ligamentous instability, no edema in either lower extremity, bilateral knee diffuse tenderness and “neurologically intake in both lower extremities.” Dr. Goldfarb recommended that an electromyography be performed to determine the source of her leg pain.

Appellant filed claims for wage-loss compensation (Form CA-7) for intermittent wage loss for the period April 15 to June 9, 2006. On the back of the claim form dated May 1, 2006, the employing establishment noted that there was no work within her restrictions for the period April 24 to 28, 2006 and that she had not submitted medical evidence to support total disability for the period April 15 to 27, 2006. The employing establishment noted on the May 19 and June 2, 2006 claim forms that it was unable to provide enough work for appellant based on more stringent work restrictions. On the June 2, 2006 claim form the employing establishment also noted that “[r]estrictions became more stringent per [April] 18, [20]06 medical.”

On a May 1, 2006 time analysis form appellant broke down her leave and work hours for the period April 15 to 28, 2006. She worked a total of 19.84 hours and used 36.16 hours of leave without pay for the period April 15 to 28, 2006. Appellant used 9.77 hours of leave without pay for April 15 and 17, 2006 due to her leg hurting. On April 18, 2006 she used 1.07 hours of leave without pay for a doctor’s visit. Appellant used a total of 25.32 hours of leave without pay for the period April 24 to 28, 2006 and noted that she was informed that there was no work for her.

By letter dated May 3, 2006, the Office advised appellant that the record did not contain any medical evidence establishing that she was disabled from April 15 to 28, 2006 due to her accepted employment-related injury. The Office advised her as to the factual and medical evidence required to support her claim. It was also requested that appellant submit information regarding her light-duty position. She was afforded 30 days to submit such evidence.

In response, appellant submitted an April 18, 2006 physician’s report of work ability by Dr. Goldfarb, a treating Board-certified orthopedic surgeon, who indicated that she required a sitting only job. Dr. Goldfarb checked a box on the form that she was totally disabled from work and could return to work on April 18, 2006.

On a May 19, 2006 time analysis form appellant broke down her leave and work hours for the period April 29 to May 12, 2006. She reported that she worked a total of 8.37 hours and used 71.63 hours of leave without pay for the period April 29 to May 12, 2006. No reason was given for the leave used.

In a May 25, 2006 fax, appellant noted that her work restrictions began on October 10, 2003 after she had been injured. She related that she had “not stopped working completely. Work told me there was no work available.”

On May 31, 2006 the employing establishment noted that appellant’s April 18, 2006 medical report indicated that she was capable of a sitting only job, which was a more stringent restriction than the modified duty she had been performing.

On a June 1, 2006 time analysis form appellant broke down her leave and work hours for the period May 13 to 25, 2006. She reported that she worked a total of 8.24 hours and used 19.96 hours of sick leave and 51.84 hours of leave without pay for the period May 13 to 25, 2006. No reason was given for the sick or leave without pay appellant used.

On June 5, 2006 appellant accepted a limited-duty job which required sit down work only.

In a June 6, 2006 report, Dr. Goldfarb diagnosed persistent leg pain of unknown etiology. A physical examination revealed no effusion, no ligamentous instability, no edema in either lower extremity, bilateral knee diffuse tenderness and “neurologically intact in both lower extremities. Dr. Goldfarb stated that “[appellant’s] EMG that was repeated had resolved to normal.” He indicated his concern that appellant’s leg pain was indicative of a neurological rather than orthopedic problem. Dr. Goldfarb attributed appellant’s leg pain to her employment injury as appellant had no symptoms prior to the 2003 employment injury “and therefore I feel the majority of her symptoms are most likely related to the work injury of 2003.” He concluded “the work restrictions that we are providing should be related to her work injury of 2003.”

On a June 16, 2006 time analysis form appellant broke down her leave and work hours for the period May 27 to June 9, 2006. She reported that she worked a total of 31.43 hours and used 8 hours of holiday leave and 40.57 hours of leave without pay for the period May 27 to June 9, 2006. No reason was given for the leave used except for the eight hours of holiday leave.

By decision dated October 5, 2006, the Office denied appellant’s claim for wage-loss compensation for the period April 15 to June 9, 2006.

On October 8, 2006 appellant’s counsel requested an oral hearing before an Office hearing representative, which was held on March 29, 2007.¹

By decision dated June 25, 2007, the Office hearing representative affirmed the denial of her claim for wage-loss compensation for the period April 15 to June 9, 2006.²

LEGAL PRECEDENT

Under the Federal Employees’ Compensation Act, the term disability is defined as an inability, due to an employment injury, to earn the wages the employee was receiving at the time of the injury, i.e., an impairment resulting in loss of wage-earning capacity.³ For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for

¹ The Board notes that the Office terminated appellant’s wage-loss benefits effective April 9, 2007. However, this issue is not before the Board as appellant filed a request for an oral hearing before an Office hearing representative and no final decision had been issued at the time of appellant’s appeal on July 24, 2007.

² The Board also notes that the record contains a November 13, 2006 hearing representative’s decision affirming a December 23, 2005 decision. The Office denied appellant’s claim for wage-loss compensation for the period May 5 to June 1, 2005. In her appeal, appellant’s attorney did not request that the Board review this decision.

³ See *Prince E. Wallace*, 52 ECAB 357 (2001).

work as a result of the accepted employment injury.⁴ Whether a particular injury causes an employee to become disabled for work and the duration of that disability are medical issues that must be proved by a preponderance of probative and reliable medical opinion evidence.⁵ The fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁶

The Board will not require the Office 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.⁷

ANALYSIS

The Office accepted that appellant sustained left knee contusion, left ankle sprain and left knee strain and abrasion and left knee torn lateral meniscus on October 10, 2003 in the performance of duty. She seeks compensation for intermittent wage loss from April 15 to June 9, 2006. The Office, by decisions dated October 5, 2006 and June 25, 2007, found that appellant was not disabled for work during the claimed period. She has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed disability and the accepted condition.⁸

There is insufficient medical evidence to support that appellant's physical restrictions caused disability for the period April 15 to June 9, 2006. The only reports that cover the relevant period and which contains restrictions to appellant's physical activity are those of Dr. Goldfarb, a treating Board-certified orthopedic surgeon. On April 18, 2006 he advised that appellant had pain of an unknown etiology with a normal physical examination. In an April 18, 2006 physician's report of work ability, Dr. Goldfarb indicated that appellant required a sitting only job. He checked that appellant was totally disabled from work and could return to work on April 18, 2006. Although Dr. Goldfarb noted that appellant had leg pain and that she could return to work on April 18, 2006, he did not address whatever her disability beginning April 15, 2006 was causally related to her accepted employment condition. Rather, he noted that the etiology of her pain was not known. The April 18, 2006 reports of Dr. Goldfarb fail to contain any rationale explaining how appellant's disability was causally related to her accepted October 10, 2003 employment injury. The Board has held that medical reports not containing rationale on causal relationship are entitled to little probative value.⁹ Moreover, Dr. Goldfarb did not address the period of disability. Whether a particular injury causes an employee to be

⁴ *Dennis J. Balogh*, 52 ECAB 232 (2001).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *Manuel Garcia*, 37 ECAB 767 (1986).

⁷ *Amelia S. Jefferson*, 57 ECAB ____ (Docket No. 04-568, issued October 26, 2005); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁸ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

⁹ *J.M.*, 58 ECAB ____ (Docket No. 06-2094, issued January 30, 2007).

disabled for work and the duration of that disability are medical issues that must be proved by a preponderance of the probative and reliable medical evidence.¹⁰

On June 6, 2006 Dr. Goldfarb noted that he was concerned that appellant's leg pain was indicative of a neurological rather than orthopedic problem. He again diagnosed leg pain of unknown etiology. Dr. Goldfarb attributed appellant's leg pain to her employment injury as appellant had no symptoms prior to the 2003 employment injury. However, the Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury, without sufficient rationale, is insufficient to establish causal relationship.¹¹ As noted Dr. Goldfarb did not address the period of disability or provide any explanation as to how residuals of her accepted conditions caused disability for the claimed period.

There is no medical evidence to support that because of her employment injury appellant could only perform more restrictive light duty for the period April 15 to June 6, 2006. Consequently, the Board finds that the Office properly denied her claim for compensation for this period.

CONCLUSION

The Board finds that appellant did not meet her burden of proof in establishing a recurrence of disability from April 16 to June 9, 2006 causally related to her October 10, 2003 employment injury.

¹⁰ *Amelia S. Jefferson, supra* note 7.

¹¹ *Michael S. Mina*, 57 ECAB ____ (Docket No. 05-1763, issued February 7, 2006).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 25, 2007 is affirmed.

Issued: March 3, 2008
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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