

June 1, 2006 and returned to work four hours a day at light duty on February 6, 2007. The Office accepted the claim for fibular fracture of the right leg.¹

Appellant submitted reports from Dr. Jeffrey A. Lynn, a podiatrist, dated July 24 to August 10, 2006, for treatment of a fracture of the fibula of the right leg which occurred when she fell from her chair at work. Dr. Lynn also treated appellant for a right foot wound and ulcer due to diabetes unrelated to her fracture. He referred appellant to Dr. Curtis Smith, an orthopedic surgeon, for further treatment of the right leg fracture. In reports from July 8, 2006 to February 16, 2007, Dr. Smith treated appellant for right leg injuries sustained in her workplace fall. He diagnosed fracture of the lateral malleolus of the right ankle and fracture of the right proximal fibula. Dr. Smith opined that appellant's condition was the result of her industrial accident. He recommended 6 to 12 weeks of physical therapy and advised that appellant was temporarily totally disabled. In reports dated January 19 and February 16, 2007, Dr. Smith indicated that appellant could return to work in a transitional manner on February 6, 2007 for four hours per day, sitting only, with lifting restricted to 10 pounds.

Appellant submitted several CA-7 forms, claims for compensation for total disability from July 15, 2006 to February 17, 2007. The Office granted her claims for compensation.

Appellant submitted a work capacity evaluation from Dr. Smith dated March 27, 2007. Dr. Smith noted that she could work four hours per day with a progressive increase to eight hours a day subject to restrictions. On April 17, 2007 he increased appellant's work hours to six per day subject to restrictions. On April 18, 2007 appellant accepted a transitional work assignment providing administrative and clerical support for the Human Resources Management Services, six hours per day, effective April 23, 2007. In reports dated April 27 and May 18, 2007, Dr. Smith noted that appellant returned to limited-duty six hours per day with restrictions but experienced marked swelling and pain on March 8, 2007 and could not work. He diagnosed fracture of the right ankle, lateral malleolus and right proximal fibulas and advised appellant to continue her current restricted-duty work.

In a report dated July 31, 2007, Dr. Smith advised appellant to continue the six-hour work shift with restrictions and that starting August 6, 2007 she could work eight-hour shifts with permanent restrictions. In a work restriction report dated August 3, 2007, he reiterated that appellant could work eight hours per day with restrictions.

Appellant submitted several CA-7 forms, claims for compensation for total disability for the period February 19 to August 4, 2007. The Office granted appellant's claims for compensation.

On September 7, 2007 appellant filed a claim for compensation for August 22, 2007 for eight hours of leave without pay. Her supervisor noted that she was requesting eight hours of leave without pay based on disability on August 22, 2007. Appellant submitted a note from Dr. Smith dated August 24, 2007, who advised that she could return to work on August 23, 2007

¹ On September 5, 2006 the Office denied appellant's claim for continuation of pay beginning May 30, 2006 because her traumatic injury claim was not filed within 30 days. On March 1, 2007 a hearing representative affirmed the September 5, 2006 decision.

with restrictions of sitting and no lifting over 10 pounds. Dr. Smith noted that appellant was disabled on August 22, 2007. In a report dated September 7, 2007, he indicated that appellant's condition was unchanged.

In letters dated September 10 and October 2, 2007, the Office requested that appellant submit medical evidence establishing total disability from work on August 22, 2007. It further advised appellant that she may have experienced a recurrence of disability on August 22, 2007 and to submit evidence in support of the recurrence should this be the case.

Appellant submitted a work capacity evaluation from Dr. Smith dated September 21, 2007 who diagnosed a proximal and distal fibular fracture of the right leg. Dr. Smith reiterated that appellant could work eight hours per day with restrictions.

In a decision dated October 10, 2007, the Office denied appellant's claim for compensation for disability on August 22, 2007. It found that the medical evidence was insufficient to establish that her total disability was due to her accepted work injury.

On October 12, 2007 appellant requested an oral hearing which was held on February 6, 2008. In a report dated October 5, 2007, Dr. Smith noted her complaints of pain, weakness and difficulty walking and that she was working a full-time limited-duty position. He noted that on August 22, 2007 appellant called his office and complained of increasing pain and felt she was unable to work. Dr. Smith opined that appellant's symptoms were real and agreed to "cover her" on that occasion for that missed workday. He advised appellant that, in the future, she would have to use leave or go to an emergency room. In a return to work form of the same date, Dr. Smith indicated that appellant could work full time subject to restrictions. On December 21, 2007 appellant presented with complaints of persistent cramping with diffuse tenderness proximally and distally. In a January 4, 2008 attending physician's report, Dr. Smith diagnosed fracture of the lateral malleolus and proximal fibula and noted appellant could work full time subject to permanent restrictions of sitting for eight hours per day.

In a March 27, 2008 decision, an Office hearing representative affirmed the denial of compensation for total disability on August 22, 2007.²

LEGAL PRECEDENT

A claimant has the burden of proving by a preponderance of the evidence that he or she is disabled for work as a result of an accepted employment injury and must submit medical evidence for each period of disability claimed.³ Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues.⁴ The issue

² In a February 13, 2008 decision, the Office denied appellant's claim for a schedule award. Appellant did not seek the Board's review of this decision in the present appeal.

³ See *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁴ *Id.*

of whether a particular injury causes disability for work must be resolved by competent medical evidence.⁵

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. For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for work as a result of the accepted employment injury.⁶

ANALYSIS

The Office accepted appellant's claim for fibular fracture of the right leg. The Board finds that the medical evidence submitted in support of the wage-loss compensation claim for total disability on August 22, 2007, is insufficient to establish that she sustained disability that day was caused or aggravated by the accepted employment injury.

Appellant submitted a note from Dr. Smith dated August 24, 2007 who indicated that appellant was treated for a work-related injury and diagnosed right fracture of the lateral malleolus right ankle and fracture of the right proximal fibula. Dr. Smith noted that appellant was disabled on August 22, 2007 and could return to work on August 23, 2007 with restrictions. Although he noted that appellant was disabled on August 22, 2007, he did not specifically address whether her disability that day was causally related to her May 30, 2006 employment injury. The Board has found that vague medical opinions which do not explain the causal relationship lack probative value.⁷

Moreover, in an October 5, 2007 report, Dr. Smith noted that on August 22, 2007 appellant called his office indicating that she was unable to work. He did not examine appellant that day but felt that her symptoms were real and agreed to "cover her" for the missed workday. However, Dr. Smith merely repeated appellant's opinion regarding her capacity for work. He did not treat her or provide a rationalized opinion on causal relationship of how the accepted employment condition of fibular fracture of the right leg caused disability that day.⁸ Dr. Smith did not explain why appellant could not perform the restricted duties of the position due to her accepted conditions. The Board has held that findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that she hurt too much to work, without objective findings of disability being shown,

⁵ See *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁶ *Sandra D. Pruitt*, 57 ECAB 126 (2005).

⁷ See *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006).

⁸ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.⁹

The other reports from Dr. Smith do not specifically address the cause of appellant's disability on August 22, 2007. Therefore, these reports are insufficient to meet appellant's burden of proof.

CONCLUSION

The Board finds that appellant has failed to establish that her disability on August 22, 2007 is causally related to the accepted employment injury of May 30, 2006.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated March 27, 2008 and October 10, 2007 are affirmed.

Issued: January 29, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁹ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008).