

On October 29, 2007 appellant filed a claim for compensation from October 15 to November 8, 2007. The Office paid her compensation for wage loss from October 15 to November 30, 2007.

Appellant resigned from the employing establishment effective November 5, 2007, citing as the reason her desire to relocate.¹

On January 16, 2008 Dr. Christopher G. Mazoue, a Board-certified orthopedic surgeon, noted that appellant reported that her back and right shoulder pain was better and that she had no further numbness in the lateral aspect of the right arm. He diagnosed “[m]uch improved neck pain, back pain, right upper extremity pain and paresthesias.

In a progress report dated April 18, 2008, Dr. Mazoue described appellant’s complaints of some low back pain and a burning pain in her right shoulder. He listed findings on examination and diagnosed chronic low back pain and right shoulder pain. Dr. Mazoue opined that it was “difficulty to say what exactly is causing [appellant’s] symptoms.” In an accompanying excuse slip, he found that she was disabled from work beginning January 1, 2008 until a date to be determined.

On June 18, 2008 Dr. Mazoue diagnosed chronic right shoulder pain with impingement and chronic low back pain. He noted that appellant’s condition had improved following corticosteroid injections and physical therapy. In a disability slip of the same date, Dr. Mazoue found that she should remain off work pending the next evaluation.

On July 9, 2008 Dr. Mazoue discussed appellant’s complaints of increased right shoulder pain. He diagnosed chronic right shoulder pain with impingement syndrome, chronic low back pain and abnormal neurological symptoms. Dr. Mazoue noted that her symptoms suggested a possible problem “more central within the brain or cervical spine.”

On August 14, 2008 appellant filed Forms CA-7 requesting compensation for wage loss from December 1, 2007 to July 31, 2008. By letter dated August 19, 2008, the Office requested that she submit a comprehensive medical report from her attending physician addressing whether she had any disability due to her accepted work injury.

By decision dated November 3, 2008, the Office denied appellant’s claim for compensation after finding that the medical evidence was insufficient to establish that she was disabled from December 1, 2007 to July 31, 2008 causally related to her accepted work injury.

In a report dated October 29, 2008, received by the Office on November 16, 2008, Dr. Mazoue diagnosed chronic right shoulder pain with impingement syndrome, chronic low back pain and a neurogenic pain of the right upper extremity with mild carpal tunnel syndrome on electrodiagnostic studies. He recommended that she see a neurologist and stated, “I am a little bit confused with regards to her diagnosis.”

¹ On October 31, 2007 appellant informed the Office that she was resigning from the employing establishment in order to relocate. She requested information about obtaining medical treatment and wage loss.

On December 3, 2008 appellant, through her attorney, requested a telephone hearing. At the telephone hearing held on March 18, 2009 she described her work injury and treatment received. Appellant stopped work in August 2007 and relocated. She related that she resigned voluntarily in order to avoid termination for cause.

In an April 14, 2009 form report, Dr. Mazoue diagnosed right shoulder pain and low back pain. He noted objective findings of limited range of motion of the right shoulder. Dr. Mazoue asserted that appellant was disabled from October 2007 to October 2008. He provided the history of injury as a fall on August 17, 2007 and indicated that the history of injury and the diagnosis were “related.”

By decision dated May 22, 2009, the hearing representative affirmed the November 3, 2008 decision. She found that the medical evidence was insufficient to establish that appellant was disabled during the period in question due to her accepted employment injury.

LEGAL PRECEDENT

The term disability as used in the Federal Employees’ Compensation Act² means the incapacity because of an employment injury to earn the wages that the employee was receiving at the time of injury.³ Whether a particular injury caused an employee disability for employment is a medical issue which must be resolved by competent medical evidence.⁴ When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in the employment held when injured, the employee is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity.⁵ The Board will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employee’s to self-certify their disability and entitlement to compensation.⁶

ANALYSIS

The Office accepted that appellant sustained a sprain of the right shoulder and upper arm at the rotator cuff due to an August 17, 2007 employment injury. It paid her compensation for total disability from October 15 to November 30, 2007. Effective November 5, 2007 appellant resigned from the employing establishment and provided as her reason that she desired to relocate. On August 14, 2008 she filed claims for compensation for wage loss from December 1, 2007 to July 31, 2008.

² 5 U.S.C. §§ 8101-8193; 20 C.F.R. § 10.5(f).

³ *Paul E. Thams*, 56 ECAB 503 (2005).

⁴ *Id.*

⁵ *Id.*

⁶ *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

In a report dated January 16, 2008, Dr. Mazoue discussed appellant's reduced symptoms of back and right shoulder pain. He diagnosed improved back and neck pain and improved pain and paresthesias of the right upper extremity. As Dr. Mazoue did not address the cause of appellant's condition or whether she was disabled from employment, his report is of little probative value.⁷

On April 18, 2008 Dr. Mazoue diagnosed chronic low back and right shoulder pain. He listed findings on examination and asserted that he was not sure what was causing appellant's symptoms. In a disability certificate of the same date, Dr. Mazoue found that she was disabled from work beginning January 1, 2008. As he opined that he was unsure of the cause of appellant's condition, his report is speculative in nature and thus of diminished probative value.⁸ Further, Dr. Mazoue did not provide a history of the August 17, 2007 work injury or attribute any condition or disability to the accepted employment injury. Without a firm diagnosis supported by medical rationale, his opinion is of little probative value.⁹

On June 18, 2008 Dr. Mazoue diagnosed chronic low back and right shoulder pain with impingement. He found that she should remain off work until the next appointment. As Dr. Mazoue did not attribute any condition or period of disability to appellant's work injury, his opinion is of diminished probative value.¹⁰

In a report dated July 9, 2008, Dr. Mazoue noted that appellant complained of increased right shoulder pain. He found that she had abnormal neurological symptoms and that her complaints might be the result of a brain or cervical spine condition. On October 29, 2008 Dr. Mazoue diagnosed right shoulder pain and impingement syndrome, chronic low back pain and neurogenic right upper extremity pain. He related that he was "a little bit confused" about her diagnosis. As Dr. Mazoue's opinion is speculative in nature and fails to address the relevant issue of whether appellant was disabled due to her accepted work injury on or after December 1, 2007, his reports are of little probative value.¹¹

In a form report dated April 14, 2009, Dr. Mazoue listed the history of injury as a fall on August 17, 2007. He diagnosed right shoulder and low back pain and indicated that the history of injury and diagnoses were "related." Dr. Mazoue found that appellant was disabled from October 2007 to October 2008. He did not, however, explain how or why her work injury resulted in disability from employment for one year. The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a

⁷ See *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of little probative value on the issue of causal relationship); *Carol A. Lyles*, 57 ECAB 265 (2005) (whether a particular injury caused an employee disability from employment is a medical issue which must be resolved by competent medical evidence).

⁸ *D.E.*, 58 ECAB 448 (2007); *Cecelia M. Corley*, 56 ECAB 662 (2005)

⁹ See *Samuel Senkow*, 50 ECAB 370 (1999) (finding that, because a physician's opinion of Legionnaires disease was not definite and was unsupported by medical rationale, it was insufficient to establish causal relationship).

¹⁰ See *supra* note 7.

¹¹ See *L.R. (E.R.)*, 58 ECAB 369 (2007); *A.D.*, 58 ECAB 149 (2006).

physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.¹² Consequently, Dr. Mazoue's report is of diminished probative value.

Appellant has not submitted rationalized medical evidence showing that she was disabled from December 1, 2007 to July 31, 2008 due to her accepted employment injury. Consequently, the Office properly denied her claim for compensation.

CONCLUSION

The Board finds that appellant has not established that she was disabled from December 1, 2007 to July 31, 2008 causally related to her accepted employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated May 22, 2009 and November 3, 2008 are affirmed.

Issued: April 5, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹² *Sandra D. Pruitt*, 57 ECAB 126 (2005).