



establish that she was disabled for the period May 20 to July 2 and July 17 to August 21, 2008 as a result of her accepted employment-related injuries. The facts and history contained in the prior appeal are incorporated by reference.

On May 12, 2009 appellant submitted a Form CA-7 requesting wage-loss compensation for disability for the period February 19 to 21, 2009.

In a February 19, 2009 report, Dr. Gary W. Farley, a Board-certified orthopedic surgeon and osteopath, advised that appellant was unable to work from February 19 to 26, 2009. In a separate report of February 19, 2009, he noted that appellant returned for a recurrence of problems with her right thumb. Dr. Farley found a positive grind test and administered a steroid injection. He indicated that he would allow her to return to work next week. Dr. Farley noted that appellant received a cortisone injection on February 19, 2009 and that she was advised not to work due to “possible side effects of the injection.”

By letter dated May 15, 2009, the Office informed appellant of the evidence needed to support her claim for the dates of February 20 and 21, 2009 and requested that she submit such evidence within 30 days. It noted that it was processing payment for February 19, 2009 due to a steroid injection that was administered that date.

In a letter dated May 24, 2009, appellant advised the Office that she was including a December 2, 2008 report from Dr. Farley. She alleged that the injury, diagnosis and treatment were the same and the recovery time took five weeks after she received injections in October 2008.

In a December 2, 2008 report, Dr. Farley advised that appellant was last seen on November 13, 2008. He indicated that appellant had not recovered from her original injury or returned to regular employment. Dr. Farley noted that appellant continued to have lingering symptoms of synovitis with degenerative changes at the carpometacarpal (CMC) joint of her thumbs. He indicated that, due to the repetitive nature of her position, she was prone to recurrence due to inflammation and the degenerative changes. On July 2, 2009 the Office received a letter from Dr. Farley’s secretary. The secretary noted that appellant was able to return to work on February 26, 2009 with her prior restrictions.

By decision dated July 9, 2009, the Office denied appellant’s claim for compensation for the period February 20 to 21, 2009. It paid compensation for February 19, 2009 because she had an injection on that date. The Office advised appellant that the medical evidence did not establish disability for February 20 or 21, 2009.

On July 27, 2009 appellant’s representative requested a telephonic hearing, which was held on November 5, 2009.

In a September 29, 2009 report, Dr. Randall Roush, a Board-certified orthopedic surgeon and treating physician noted that appellant came in for bilateral thumb pain. He provided an injection to the CMC joints in both thumbs and provided an off work prescription for two days. Dr. Roush also saw appellant on November 17, 2009 and placed her off work from September 29 through 30, 2009 due to swelling, inflammation and the need to rest the hands after cortisone injections in her right and left thumb. Additionally, in reports dated November 24, 2009, he

noted that appellant was treated in the past for CMC joint arthritis with occasional injections. Dr. Roush advised that appellant received an injection of the first extensor tendon sheath and placed her off work for a week because she had involvement of both hands and difficulty at work.

In a January 8, 2010 decision, an Office hearing representative affirmed the July 9, 2009 decision.

### **LEGAL PRECEDENT**

The term disability as used in the Federal Employees' Compensation Act<sup>2</sup> means the incapacity because of an employment injury to earn the wages that the employee was receiving at the time of injury.<sup>3</sup> Whether a particular injury caused an employee disability for employment is a medical issue which must be resolved by competent medical evidence.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

### **ANALYSIS**

In support of her claim for disability on February 20 and 21, 2009, appellant provided reports from her treating physician, Dr. Farley; however, he did not support appellant's claim for total disability with sufficient medical rationale.

On February 19, 2009 Dr. Farley advised generally that appellant was unable to work from February 19 to 26, 2009. Appellant returned for a recurrence of problems with her right thumb and he administered a steroid injection. Dr. Farley stated that he would "allow her to return to work next week. He noted that appellant received a cortisone injection on February 19, 2009 and that she was advised not to work due to "possible side effects of the injection." Dr. Farley did not address why administration of the injection would disable appellant for any period of time. Further, his report is speculative as to "possible" side effects that were not otherwise described or discussed. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal

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

<sup>3</sup> *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>4</sup> *W.D.*, 61 ECAB \_\_\_\_ (Docket No. 09-658, issued October 22, 2009); *Paul E. Thams*, *supra* note 3.

<sup>5</sup> *Id.*

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

relationship.<sup>7</sup> Dr. Farley provided a steroid injection on February 19, 2009 to treat appellant's accepted trigger thumb and the Office paid her compensation for that date. The record also contains Dr. Farley's December 2, 2008 report but this report predates the period in question and does not offer any opinion regarding appellant's inability to work on February 20 and 21, 2009. The letter from Dr. Farley's secretary is not competent medical opinion evidence as such evidence can only be provided by a qualified physician.<sup>8</sup>

The reports from Dr. Roush do not address whether appellant's accepted condition caused disability on February 20 and 21, 2009. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>9</sup>

Appellant alleged that she was disabled on February 20 and 21, 2009, due to her accepted employment injury. The medical evidence of record does not establish her claimed disability was due to the cortisone injection of February 19, 2009. The Board finds that appellant has failed to submit rationalized medical evidence to establish disability from February 20 to 21, 2009 was causally related to her accepted employment injury.

### **CONCLUSION**

The Board finds that appellant failed to establish that she was disabled on February 20 and 21, 2009 as a result of her employment-related injuries.

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<sup>7</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>8</sup> *See* 5 U.S.C. § 8101(2). This subsection defines the term "physician." *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

<sup>9</sup> *K.W.*, 59 ECAB 271 (2007).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 8, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 10, 2011  
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