

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEANETTE S. HURLEY and DEPARTMENT OF DEFENSE,
DECA WESTERN/PACIFIC REGION COMMISSARY,
McCLELLAN AIR FORCE BASE, CA

*Docket No. 99-629; Submitted on the Record;
Issued June 5, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly denied appellant continuation of pay for time loss during the period March 17 through 26, 1998 due to her accepted left knee sprain.

The Board has duly reviewed the case record in this appeal and finds that the Office properly denied appellant continuation of pay for time loss during the period March 17 through 26, 1998 due to her accepted left knee sprain.

On March 17, 1998 appellant, then a 44-year-old cashier, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her left leg, knee and hip, and her right ankle and leg when she fell coming down off a truck. Appellant stated that the handrails were very loose. Appellant stopped work on March 17, 1998.

The Office accepted appellant's claim for a left knee sprain.

By letter dated June 10, 1998, the Office advised appellant to file a claim for compensation on account of traumatic injury or occupational disease (Form CA-7) and supportive medical evidence based on a telephone conversation with appellant on June 9, 1998 wherein appellant stated that she was diagnosed with shingles in her back and was disabled for two weeks due to her March 17, 1998 employment injury. In response, appellant filed a Form CA-7 on July 1, 1998, covering the period March 17 through 26, 1998. Appellant's claim was accompanied by medical evidence indicating that she was released to light-duty work on March 18, 1998. Appellant returned to light-duty work on March 21, 1998.¹

¹ The record reveals that appellant was assigned to the identification desk and was required to work 20.5 hours per week. Appellant resigned from the employing establishment effective May 24, 1998.

By decision dated August 6, 1998, the Office found that appellant was not entitled to continuation of pay during her absence from work during the period March 17 through 26, 1998. The Office stated that the medical evidence of record failed to establish that appellant was totally disabled during the claimed period. The Office further stated that appellant was temporarily disabled and the employing establishment provided her with light-duty accommodations within her medical restrictions. The Office denied appellant's claim for compensation for the claimed period because she was returned to light-duty work and such work was provided to her by the employing establishment.

An individual who claims benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of a compensation claim, including the fact that an injury occurred in the performance of duty as alleged, and that disability for employment was sustained as a result thereof.³

In the instant case, appellant met her burden of proof in establishing that she sustained a left knee sprain in the performance of duty on March 17, 1998. Appellant claims, however, that this injury caused her disability for employment from March 17 through 26, 1998. This contention is not supported by the medical evidence of record.

Whether a particular injury causes an employee disability for employment and the duration of that disability must be proved by a preponderance of reliable, probative and substantial medical evidence.⁴ In the instant case, appellant submitted a March 17, 1998 medical note of Dr. Rai Bahadursingh, a general practitioner and an employing establishment physician, indicating that she was treated on that date for her employment injury and was advised to go home. Appellant also submitted Dr. Bahadursingh's March 18, 1998 medical treatment note releasing her to light-duty work and noting her physical restrictions. Further, appellant submitted Dr. Bahadursingh's March 23, 1998 medical treatment note revealing that she could perform light-duty work as before until March 26, 1998. Dr. Bahadursingh's July 13, 1998 attending physician's report (Form CA-20) provided a history of the March 17, 1998 employment injury, and a diagnosis of a soft tissue injury to the left knee, and a sprained right and left knee. Dr. Bahadursingh indicated that appellant's condition was caused by an employment activity by placing a check mark in the box marked "yes." He explained that, while taking a sample from a truck, the handrails were loose which caused appellant to fall. He indicated that appellant was advised to resume light-duty work on March 18, 1998.

In none of his medical treatment notes or report did Dr. Bahadursingh indicate that appellant was unable to work during the period March 17 through 26, 1998. Further, the record reveals that the employing establishment provided appellant with light-duty work which she reported to on March 21, 1998. There is no medical evidence of record establishing that appellant was totally disabled from March 17 through 26, 1998 due to her March 17, 1998 employment injury. Because the medical evidence fails to support that appellant was disabled

² 5 U.S.C. §§ 8101-8193.

³ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁴ *Id.*

for the claimed period due to her accepted employment injury, she is not entitled to continuation of pay or monetary compensation for that period.

The decision of the Office of Workers' Compensation Programs dated August 6, 1998 is hereby affirmed.

Dated, Washington, D.C.
June 5, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member