

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DORIS RICHARDSON and DEPARTMENT OF THE NAVY,
NAVY PERSONNEL COMMAND, Millington, TN

*Docket No. 02-2145; Submitted on the Record;
Issued March 10, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant is entitled to continuation of pay from August 30 through September 9, 2001.

On August 27, 2001 appellant, then a 47-year-old human resource assistant, filed a notice of traumatic injury, alleging that on August 27, 2001 she slipped in a hallway and fell on both knees. The Office of Workers' Compensation Programs accepted appellant's claim for left knee contusion. Appellant ceased work on the date of her injury and returned to work on September 10, 2001.

An emergency room report dated August 28, 2001 indicated that appellant should work light duty with no prolonged standing or squatting until August 30, 2001. In an attending physician's report dated September 7, 2001, Dr. William H. Knight, a Board-certified orthopedic surgeon, indicated that appellant was totally disabled from August 29 until September 7, 2001.

On January 24, 2002 the Office accepted that appellant sustained a left knee contusion and advised appellant to document any lost time from work or medical care.

By letter dated February 19, 2002, appellant's employing establishment stated that appellant had not informed her supervisor that she could return to regular duty on August 30, 2001 and for this reason, the employing establishment controverted her claim.

By decision dated March 27, 2002, the Office denied appellant's claim for continuation of pay during her absence from work for the period August 30 through September 9, 2001, as appellant was released to regular duty on August 30, 2001 and did not return to work or provide her employing establishment any supporting medical documentation. The Office noted that appellant only provided the medical paperwork to her employing establishment on September 12, 2001, two days after she returned to work.

By letter dated May 22, 2002, appellant requested reconsideration and submitted a chronological summary of events and medical evidence already in the record.

By decision dated June 25, 2002, the Office denied appellant's request for modification of the March 27, 2002 decision, as the record did not contain sufficient medical evidence to indicate that appellant was totally disabled from August 30 through September 9, 2001 due to her accepted employment injury.

The Board finds that the Office properly denied continuation of pay for appellant's claim based on its determination that the medical evidence did not support that appellant's contusion of the left knee disabled her from her regular work as alleged.

Section 8118¹ of the Federal Employees' Compensation Act provides for payment of continuation of pay, not to exceed 45 days, to an employee "who has filed a claim for a period of wage loss due to traumatic injury with his immediate supervisor on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title."² The regulations implementing the Act provide that an employee is not entitled to continuation of pay unless the employee has sustained a traumatic injury.³

In the present case, appellant met her burden of proof in establishing that she sustained a contusion of her left knee while in the performance of duty on August 27, 2001 and the Office accepted appellant's claim for that condition. However, to establish entitlement to continuation of pay, it is insufficient for an employee merely to establish that she sustained a work-related injury. Continuation of pay or monetary compensation benefits are paid to an employee who has sustained wage loss due to disability for employment resulting from the traumatic employment injury.⁴

Every injury does not necessarily cause disability for employment.⁵ 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 her employment, she is entitled to continuation of pay or monetary compensation for any loss of wage-earning capacity resulting from such incapacity.⁶

¹ 5 U.S.C. § 8118.

² Section 8122(a)(2) provides that written notice of injury was given as specified in section 8119, which provides for a 30-day time limitation for filing a claim of a traumatic injury. 5 U.S.C. § 8119(a), (c), 8122(a)(2).

³ 20 C.F.R. § 10.205(a)(1).

⁴ 20 C.F.R. § 10.200(a)-(c).

⁵ As used in the Act the term "disability" means incapacity because of an injury in employment to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. The general test in determining loss of wage-earning capacity is whether the employment-related impairment prevents the employee from engaging in the kind of work he was doing when he was injured; *see Frazier V. Nichol*, 37 ECAB 528, 540 (1986).

⁶ *Bobby W. Hornbuckle*, 38 ECAB 626 (1987); 20 C.F.R. § 10.201.

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a reasoned medical opinion that supports a causal connection between the claimed disability and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain medically how the claimed disability is related to the injury.⁷

In the present case, appellant did not submit sufficient medical evidence to establish that she was totally disabled from August 30 through September 9, 2001 due to the accepted employment injury. The August 28, 2001 emergency room report indicated that appellant should work light duty until August 30, 2001 with no prolonged standing or squatting. Based on this report, appellant was medically able to return to full-duty work on August 30, 2001. In the attending physician's report dated September 7, 2001, Dr. Knight filled in the blanks on the form indicating that appellant was totally disabled from August 29 through September 7, 2001. The Board agrees with the Office's findings that this report has little probative value since Dr. Knight did not actually see appellant until September 7, 2001, the date of the report and did not examine appellant in the intervening time. Moreover, Dr. Knight did not support his findings with rationalized medical opinion evidence. His attending physician's report also did not contain a factual and medical background with an accurate history of appellant's employment injury. The evidence required to establish causal relationship in this case, is rationalized medical opinion evidence. Appellant must submit a reasoned medical opinion that supports a causal connection between her claimed period of disability from August 30 through September 9, 2001 and the left knee contusion.⁸ Appellant has submitted no such evidence, and has therefore not met her burden of proof to establish entitlement to continuation of pay. As the Board noted earlier, it is not sufficient for an employee merely to establish that she sustained a work-related injury. The employee must submit rationalized medical evidence to show that she could not work and was totally disabled during the period in question as a result of her injury.

⁷ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁸ *Id.*

The decisions of the Office of Workers' Compensation Programs dated June 25, March 27 and January 24, 2002 are hereby affirmed.

Dated, Washington, DC
March 10, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member