



In an October 27, 2001 form report, Dr. Fred Montas, an attending orthopedic surgeon, diagnosed a muscle strain as a result of the October 8, 2001 work incident. In a November 19, 2001 report, he diagnosed lumbar radiculopathy and indicated that appellant could work with no lifting over 10 pounds and no climbing or prolonged standing.

On November 26, 2001 appellant filed a claim for a recurrence of total disability. She indicated that following the October 8, 2001 employment incident she performed light-duty work.

In a November 19, 2001 form report, Dr. Montas indicated by checking "yes" that appellant's total disability and back condition on November 26, 2001 was causally related to his October 8, 2001 employment injury.

By decision dated March 25, 2002, the Office denied appellant's claim for an injury on October 8, 2001.

In an April 22, 2002 form report, Dr. Montas indicated by checking "yes" that appellant's total disability and back condition on November 26, 2001 was causally related to his October 8, 2001 employment injury.

Appellant requested an oral hearing that was held on January 8, 2003. She submitted a January 22, 2002 report from Dr. Stanley Soren, an attending Board-certified orthopedic surgeon. He provided a history of appellant's condition and findings on physical examination. Dr. Soren opined that appellant sustained a lumbosacral sprain and left lumbar radiculopathy, primarily at L5 as a result of the October 8, 2001 work incident.

In a form report dated March 19, 2002, Dr. Montas indicated that appellant sustained a left ankle fracture on March 14, 2002 when her back gave way and she fell on stairs and he opined that the injury was causally related to the October 8, 2001 employment injury. In a March 27, 2002 report, Dr. Montas stated that on March 14, 2002 appellant fell on stairs after experiencing back pain which caused her to collapse, lose her balance and fall sustaining an avulsion fracture of the left ankle. He also diagnosed lumbosacral radiculopathy, a suspected disc herniation and a sprain of cervical spine ligaments caused by repetitive lifting and bending at work. Dr. Montas indicated that his diagnosis of post-traumatic stress disorder should be confirmed by a psychiatrist or psychologist.

By decision dated March 13, 2003, an Office hearing representative affirmed the March 25, 2002 decision.

Appellant requested reconsideration and submitted additional evidence.

In a March 4, 2004 report, Dr. Montas stated that appellant was totally disabled as of November 26, 2001. He stated, "In view of [appellant's] history of bending and lifting injury that occurred on [October 8, 2001], in the absence of any previous occurrence, it is my opinion that the accident of [October 8, 2001] is causally related to [her] neck and back lesions."

By decision dated January 11, 2005, the Office vacated the March 25, 2002 decision and accepted that appellant sustained cervical and lumbosacral strains on October 8, 2001.

By letter dated January 11, 2005, the Office advised appellant of the factual and medical evidence needed to establish her claims for a recurrence of total disability on November 26, 2001, a consequential left ankle fracture and a consequential emotional condition causally related to the October 8, 2001 employment injury. No further evidence was submitted.

By decision dated July 14, 2005, the Office denied appellant's claims for a recurrence of total disability on November 26, 2001, a consequential left ankle fracture and an emotional condition.

### **LEGAL PRECEDENT -- ISSUE 1**

Where an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that she can perform the light-duty position, the employee has the burden to establish, by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and to show that she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.<sup>1</sup>

The Board notes that the term "disability," as used in the Federal Employees' Compensation Act means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.<sup>2</sup> Whether a particular injury caused an employee disability for employment is a medical issue which must be resolved by competent medical evidence.<sup>3</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>4</sup> "Recurrence of disability" means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>5</sup>

---

<sup>1</sup> *Cecelia M. Corley*, 56 ECAB \_\_ (Docket No. 05-324, issued August 15, 2005); *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>2</sup> *Patricia A. Keller*, 45 ECAB 278 (1993).

<sup>3</sup> *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990).

<sup>4</sup> *Clement Jay After Buffalo*, 45 ECAB 707 (1994).

<sup>5</sup> 20 C.F.R. § 10.5(x).

## **ANALYSIS -- ISSUE 1**

The record reflects that appellant sustained cervical and lumbar strains on October 8, 2001 and returned to work in a light-duty capacity. She subsequently filed a claim for a recurrence of total disability November 26, 2001. To be entitled to compensation for total disability beginning on November 26, 2001, appellant must provide medical evidence establishing that she was totally disabled due to a worsening of her accepted work-related conditions or a change in her job duties such that she was unable to perform her light-duty work.

In form reports dated November 19, 2001 and April 22, 2002, Dr. Montas indicated by checking “yes” that appellant’s total disability and back condition on November 26, 2001 was causally related to his October 8, 2001 employment injury. However, he did not provide a rationalized medical opinion explaining how her recurrence of total disability was due to either a change in the nature and extent of her employment-related back conditions, cervical and lumbar strains or a change in the nature and extent of her light-duty job requirements such that she was totally disabled. The Board has held that a physician’s opinion on causal relationship which consists only of checking “yes” to a form report is of diminished probative value.<sup>6</sup> Therefore, these reports are not sufficient to establish that appellant sustained a recurrence of total disability on November 26, 2001 causally related to her October 8, 2001 employment injury.

In a March 4, 2004 report, Dr. Montas stated that appellant was totally disabled as of November 26, 2001. He stated, “In view of [her] history of bending and lifting injury that occurred on [October 8, 2001], in the absence of any previous occurrence, it is my opinion that the accident of [October 8, 2001] is causally related to [appellant’s] neck and back lesions.” However, he did not provide a fully rationalized medical opinion explaining how appellant’s recurrence of total disability was due to either a change in the nature and extent of her employment-related back conditions, cervical and lumbar strains or a change in the nature and extent of her light-duty job requirements rendering her such that she was totally disabled. Therefore, this report is not sufficient to establish that appellant sustained a work-related recurrence of total disability on November 26, 2001.

Appellant failed to establish that she was totally disabled on November 26, 2001 due to a worsening of her accepted work-related back conditions or a change in her job duties such that she was unable to perform her light-duty work. Therefore, she failed to meet her burden of proof and the Office properly denied appellant’s claim for a recurrence of total disability.

## **LEGAL PRECEDENT -- ISSUE 2**

It is an accepted principle of workers’ compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee’s own intentional conduct.<sup>7</sup>

---

<sup>6</sup> See Gary J. Walting, 52 ECAB 278 (2001).

<sup>7</sup> Albert F. Ranieri, 55 ECAB \_\_ (Docket No. 04-22, issued July 6, 2004).

Appellant bears the burden to establish her claim for a consequential injury.<sup>8</sup> As part of this burden, she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.<sup>9</sup> Rationalized medical evidence is evidence from a physician which relates a work incident or factors of employment to a claimant's condition, with stated reasons.<sup>10</sup> The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.<sup>11</sup>

### **ANALYSIS -- ISSUE 2**

In a form report dated March 19, 2002, Dr. Montas indicated that appellant sustained a left ankle fracture on March 14, 2002 when her back gave way and she fell on stairs and opined that the injury was causally related to the October 8, 2001 employment injury. In a March 27, 2002 report, he stated that on March 14, 2002 she fell on stairs after experiencing back pain which caused her to collapse, lose her balance and fall sustaining an avulsion fracture of the left ankle. However, Dr. Montas provided an insufficient explanation of how the left ankle fracture sustained on March 14, 2002 was causally related to appellant's accepted October 8, 2001 back strains. Therefore, his reports are not sufficient to establish that her left ankle fracture was consequential to her accepted employment injury. Appellant has not met her burden of proof to establish that her claimed March 14, 2002 fall and resulting left ankle fracture, was consequential to her accepted cervical and lumbar strains.

### **LEGAL PRECEDENT -- ISSUE 3**

The Act<sup>12</sup> provides for the payment of compensation benefits for injuries sustained in the performance of duty. To establish her claim that she sustained an emotional condition in the performance of duty, appellant must submit the following: (1) factual evidence identifying compensable employment factors or incidents alleged to have caused or contributed to her condition; (2) medical evidence establishing that she has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to her emotional condition.<sup>13</sup>

---

<sup>8</sup> See *Charles W. Downey*, 54 ECAB \_\_\_ (Docket No. 02-218, issued February 24, 2003).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>12</sup> 5 U.S.C. §§ 8101-8193.

<sup>13</sup> *George C. Clark*, 56 ECAB \_\_\_ (Docket No. 04-1573, issued November 30, 2004).

**ANALYSIS -- ISSUE 3**

Appellant alleged that she sustained an emotional condition as a result of her October 8, 2001 employment injury. However, she failed to submit any medical evidence from a psychiatrist or licensed clinical psychologist containing a diagnosis of her claimed emotional condition or medical rationale explaining how the diagnosed condition was causally related to the October 8, 2001 employment injury. Therefore, appellant has failed to establish a *prima facie* claim that she sustained an emotional condition as a consequence of the October 8, 2001 employment injury. Accordingly, the Office properly denied her claim for an emotional condition.

**CONCLUSION**

The Board finds that appellant failed to establish that she sustained a recurrence of total disability on November 26, 2001 causally related to her October 8, 2001 employment injury. The Board further finds that she failed to establish that she sustained a left ankle fracture or an emotional condition as consequential injuries causally related to her October 8, 2001 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 14, 2005 is affirmed.

Issued: December 22, 2005  
Washington, DC

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

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board

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