

Office accepted appellant's claim for contusion left ankle on February 7, 2005. The Office provided compensation benefits based on the claims for compensation filed by appellant through August 2, 2005.

Appellant's attending physician, Dr. Brent E. Tabor, a podiatrist, diagnosed neuritis or tarsal tunnel syndrome and plantar fasciitis on March 2, 2005. He treated appellant with a cast boot and pain medication. Dr. Tabor stated that appellant was totally disabled from February 4 through July 26, 2005.

In a note dated July 26, 2005, Dr. Tabor stated that appellant had experienced marked improvement. He released appellant to return to full duty on August 1, 2005. Dr. Tabor stated that appellant could return as needed for further care. On August 29, 2005 Dr. Tabor stated that appellant denied pain in his left foot following an eight-hour work shift. He diagnosed resolved tarsal tunnel syndrome and posterior tibial neuritis left foot. Dr. Tabor stated that appellant could return to full-duty work and return as needed for further care.

Dr. Tabor completed an attending physician's report on September 12, 2005 indicating that appellant was totally disabled from September 6 through 9, 2005, due to painful neuritis symptoms and traumatic tarsal tunnel syndrome of the left foot, causally related to his employment injury. He stated that appellant could return to regular work on September 12, 2005. Appellant filed a claim for compensation covering the period September 6 through 9, 2005. The Office authorized this compensation.

Appellant claimed compensation for total disability from September 22 through 27, 2005. He submitted a form report from Dr. Tabor dated September 28, 2005 indicating that appellant was totally disabled from September 22 through 27, 2005 and that he could return to full duty on September 28, 2005. The Office paid compensation for total disability from September 22 through 27, 2005.

Appellant claimed compensation for leave without pay from October 3 to 5, 2005. Dr. Tabor completed a report on October 6, 2005 and indicated that appellant was totally disabled for that period. He stated that appellant could resume regular work on October 6, 2005. Dr. Tabor completed an additional report on October 13, 2005 and stated that appellant was totally disabled from October 6 through 12, 2005 and that he could resume full duty on October 13, 2005. He attributed appellant's disability to painful neuritis symptoms of the left foot due to traumatic tarsal tunnel syndrome caused by the accepted employment injury. Appellant requested compensation for leave without pay from October 6 to 12, 2005 on October 13, 2005. The Office authorized compensation benefits for total disability from October 3 through 12, 2005.

Dr. Tabor stated that appellant was totally disabled from October 13 to 23, 2005 due to conditions of painful neuritis symptoms of left foot due to the diagnosis of traumatic tarsal tunnel syndrome of the left foot. He indicated that this was due to appellant's work injury. Appellant filed a claim for compensation for the period October 13 to 23, 2005. He filed an additional claim for the period October 24 to 27, 2005 due to leave without pay. Dr. Tabor supported total

disability for this period as well and indicated that appellant could return to full duty on October 28, 2005. The Office authorized compensation for wage loss for the period October 13 through 27, 2005.

Appellant filed a claim for compensation on November 11, 2005 covering the period October 28 through November 13, 2005. Dr. Tabor supported this period of total disability as causally related to appellant's employment injury and indicated that appellant could return to full duty on November 14, 2005. The Office paid wage-loss compensation from October 28 to November 13, 2005.

Dr. Tabor examined appellant on November 28, 2005 and stated that appellant related persistent low-grade neuritic symptoms in his left ankle aggravated by prolonged periods of standing and walking as well as working in crouched positions. He stated that appellant experienced increased soreness, numbness and tingling sensations in his left heel by the end of the day. Dr. Tabor found mild residual pain with palpation of the tarsal tunnel along the medial and lateral plantar nerves. He diagnosed chronic low-grade tarsal tunnel syndrome left foot and ankle.

Dr. Tabor completed a report on November 30, 2005 and indicated that appellant was totally disabled from November 14 through 29, 2005 due to his accepted employment injury. Appellant filed a claim for compensation covering this period on November 30, 2005 and the Office paid compensation benefits from November 14 through 29, 2005 on December 12, 2005.

Appellant filed a claim for compensation alleging that he was totally disabled from December 8 through 21, 2005. Dr. Tabor submitted a form report in support of this period of total disability and indicated with a checkmark that the condition was caused or aggravated by employment activities. He indicated that appellant could resume full duty on December 22, 2005. The Office paid compensation benefits for December 8 through 21, 2005.

Dr. Tabor examined appellant on December 28, 2005 and noted that he experienced stiffness, soreness and tingling sensations in his left foot with immediate weight-bearing in the morning. Appellant also experienced low-grade discomfort and pain with standing all day. Dr. Tabor found tingling paraesthesias and a positive Tinel's sign on examination as well as diminished light touch sensation in the toes of the left foot. He diagnosed traumatic tarsal tunnel syndrome, with overall improvement and stated that appellant could perform his full duties.

Appellant filed a claim for compensation on January 11, 2006 requesting wage-loss compensation for total disability for the period December 31, 2005 through January 10, 2006. On January 11, 2006 Dr. Tabor submitted a virtually identical form report in support of periods of disability after September 6, 2005. He indicated that appellant was totally disabled from December 31, 2005 to January 10, 2006 due to traumatic tarsal tunnel syndrome of the left foot. He described appellant's history of injury on December 22, 2004 and indicated with a checkmark "yes" that he believed that appellant's condition was caused or aggravated by an employment activity.

In a report dated January 18, 2006, Dr. Tabor noted appellant's history of injury and stated that appellant was discharged from care and allowed to return to full duty on August 1, 2005. He stated that on August 29, 2005 appellant denied pains in his left foot and ankle following an eight-hour shift at work. On November 28 and December 28, 2005 appellant reported persistent low-grade neuritic symptoms and used a transcutaneous nerve stimulator (TENS) unit. Dr. Tabor stated that appellant could stand all day with little difficulty. He instructed appellant to continue to use the TENS unit and to return for additional evaluation after three months.

In a letter dated February 13, 2006, the Office stated that Dr. Tabor had provided conflicting evidence regarding appellant's degree of disability for the period December 31, 2005 to January 10, 2006. The Office stated that Dr. Tabor indicated that appellant was totally disabled for that period even though he was discharged from treatment on July 27, 2005. The Office requested a clarifying report from Dr. Tabor including objective findings of how appellant's condition had worsened such that he could no longer perform employment duties. The Office allowed appellant 30 days to submit the additional evidence. On February 14, 2006 the Office provided appellant with a list of questions to be resolved by Dr. Tabor and again allowed 30 days for a response.

Dr. Tabor submitted a report dated February 20, 2006, in response to the Office's request for additional information. He stated that he treated appellant for traumatic tarsal tunnel syndrome of the left foot from February 11 to August 29, 2005. Dr. Tabor released appellant to return to full duty on August 1, 2005. He examined appellant on August 29, 2005 following a full work shift and again on November 28, 2005 due to continued low-grade neuritic symptoms treated with a TENS unit. Dr. Tabor stated that appellant continued to experience low-grade tarsal tunnel syndrome of the left foot.

By decision dated March 15, 2006, the Office denied appellant's claim for disability for the period December 31, 2005 through January 10, 2006. The Office found that the medical evidence was not sufficient to establish disability for the period claimed.¹

LEGAL PRECEDENT

A recurrence of disability is the 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 which caused the illness. The term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons

¹ Following the Office's March 15, 2006 decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not review the evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

of misconduct, nonperformance of job duties or a reduction-in-force) or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.²

Appellant for each period of disability claimed, has the burden of proving by a preponderance of the reliable, probative and substantial evidence that she is disabled for work as a result of her employment injury. Whether a particular injury caused an employee to be disabled for employment and the duration of that disability are medical issues which must be provide by preponderance of the reliable probative and substantial medical evidence.³

Generally, findings on examination are needed to justify a physician's opinion that an employee is disabled for work. The Board has stated that, when a physician's statements regarding an employee's ability to work consist only of a repetition of the employee's complaints that he or she hurts too much to work, without objective signs of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.⁴

ANALYSIS

Appellant alleged that he was totally disabled from December 31, 2005 to January 10, 2006 due to his December 23, 2004 employment injury of left ankle contusion. In support of his claim for disability for this period, appellant submitted reports from Dr. Tabor, his attending podiatrist. On January 11, 2006 Dr. Tabor submitted a form report and indicated that appellant was totally disabled from December 31, 2005 to January 10, 2006 due to traumatic tarsal tunnel syndrome of the left foot. He described appellant's history of injury on December 22, 2004 and indicated with a checkmark "yes" that he believed that appellant's condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship.⁵ Dr. Tabor did not submit any specific findings or medical reasoning explaining why appellant was disabled for the period in question. This report is not sufficient to meet appellant's burden of proof.

In a report dated January 18, 1006, Dr. Tabor reviewed his treatment notes and stated that appellant was discharged from care and allowed to return to full duty on August 1, 2005. He examined appellant on August 29, November 28 and December 28, 2005 and found persistent low-grade neuritic symptoms. Dr. Tabor supported appellant's use of a TENS unit and that he could stand all day with little difficulty. He instructed appellant to continue to use the TENS unit and to return for additional evaluation after three months. Dr. Tabor did not discuss any specific

² 20 C.F.R. § 10.5(x).

³ *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

⁴ *Id.*

⁵ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

periods of total disability and did not indicate that appellant had work restrictions. This report is not sufficient to establish that appellant is entitled to compensation benefits from December 31, 2005 to January 10, 2006.

The Office requested additional medical evidence in support of appellant's alleged period of total disability on February 13 and 14, 2006. Dr. Tabor submitted a report dated February 20, 2006 and stated that he had treated appellant for traumatic tarsal tunnel syndrome of the left foot and released appellant to return to full duty on August 1, 2005. He examined appellant on August 29, 2005 following a full work shift and again on November 28, 2005 due to continued low-grade neuritic symptoms treated with a TENS unit. Dr. Tabor stated that appellant continued to experience low-grade tarsal tunnel syndrome of the left foot. He did not opine that appellant was disabled due to his accepted employment injury of contusion left foot or to the diagnosed condition of tarsal tunnel syndrome. He did not provide objective findings that appellant was unable to work for any specific period. As Dr. Tabor did not support total disability due to the accepted employment injury on December 31, 2005 through January 10, 2006, his report is not sufficient to meet appellant's burden of proof.

CONCLUSION

The Board finds that appellant failed to submit the necessary rationalized medical opinion evidence to establish that he was totally disabled from December 31, 2005 to January 10, 2006.

ORDER

IT IS HEREBY ORDERED THAT the March 15, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 4, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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