United States Department of Labor
Employees' Compensation Appeals Board

PATRICIA HARRIS, Appellant	)	
and	)	**Docket No. 06-344**
	)	**Issued: May 4, 2006**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Oakland, CA, Employer	)	

Appearances:
Patricia Harris, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 28, 2005 appellant filed a timely appeal from an October 11, 2005 merit decision of the Office of Workers' Compensation Programs denying her claim for compensation for temporary total disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established that she sustained a recurrence of disability from May 23 to June 23, 2005 causally related to her accepted employment injury.

FACTUAL HISTORY

On November 26, 2003 appellant, then a 50-year-old modified distribution clerk, filed a claim for a traumatic injury occurring on November 25, 2003 in the performance of duty. The Office accepted her claim for a right knee contusion, right shoulder strain, head contusion and lumbosacral strain. At the time of her injury, appellant worked in a permanent limited-duty

capacity. She stopped work on November 26, 2003 and returned to limited-duty employment on December 2, 2003 for four hours per day and to full-time limited-duty employment on October 12, 2004.[1]

In a report dated May 23, 2005, Dr. Joseph Cheng, a Board-certified orthopedic surgeon and appellant's attending physician, discussed her history of falling at work and "sustaining a knee contusion." He noted that she currently experienced increased back pain. Dr. Cheng listed findings of knee swelling and tenderness and diagnosed a knee contusion with degenerative joint disease. He recommended physical therapy. In an accompanying work status report, Dr. Cheng indicated that appellant could resume work on June 23, 2005 with restrictions. In another report dated May 23, 2005, Dr. Cheng indicated that appellant could resume work on May 26, 2005 with the limitations listed in the work status report.

In a form report dated June 10, 2005, Dr. Cheng diagnosed a knee contusion and checked "yes" that it was caused or aggravated by her employment. The report does not contain a history of injury. He found that she was partially disabled from May 23 to June 2005.[2]

On June 13, 2005 appellant filed a claim for compensation on account of disability (Form CA-7) requesting compensation from May 23 to June 23, 2005.

By letter dated June 20, 2005, the Office requested additional factual and medical information from appellant, including a comprehensive, reasoned medical report describing the change in her condition that resulted in her disability.

On June 28, 2005 the Office requested that Dr. Cheng comment on whether he intended to release appellant to return to modified work on May 23 or June 23, 2005. In a letter dated August 8, 2005, the Office requested that Dr. Cheng provide a detailed medical report regarding his placement of appellant on temporary total disability from May 23 to June 23, 2005 and a discussion of the causal relationship between her current condition and her employment injury.

On August 16, 2005 appellant filed a claim for a recurrence of disability on May 23, 2005 causally related to her November 25, 2003 employment injury.[3] She noted that she resumed work on June 23, 2005. Appellant's supervisor indicated that she worked with accommodation following her November 25, 2003 employment injury.

On September 6, 2005 the Office resent its August 8, 2005 letter to Dr. Cheng requesting additional information on appellant's claim for disability from May 23 to June 23, 2005.

[1] Appellant returned to full-time employment with restrictions based on the opinion of the impartial medical examiner, Dr. Arthur M. Auerbach, a Board-certified orthopedic surgeon.

[2] The date in June that Dr. Cheng found that appellant's partial disability ceased is illegible.

[3] The record contains additional medical evidence regarding appellant's condition after June 23, 2005; however, this evidence does not provide any finding pertinent to the claimed period of disability from May 23 to June 23, 2005.

In a telephone call dated September 15, 2005, appellant related that Dr. Cheng was no longer her attending physician and that she was "having difficulty obtaining medical" information from him. An Office claims examiner informed her that she should have him explain why he placed her on temporary total disability due to her employment injury.

By decision dated October 11, 2005, the Office denied appellant's claim on the grounds that the evidence did not establish that she sustained recurrence of disability from May 23 to June 23, 2005 causally related to her accepted employment injury.

LEGAL PRECEDENT

Where an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee 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 he or 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.[4]

Office regulations provide that a 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.[5] This 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 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.[6]

ANALYSIS

The Office accepted that appellant sustained a right knee contusion, right shoulder strain, a head contusion and lumbosacral strain due to a November 25, 2003 employment injury. She stopped work on November 26, 2003 and returned to limited-duty employment on December 2, 2003 for four hours per day.[7] Appellant resumed full-time limited-duty employment on October 12, 2004. She filed a notice of recurrence of disability from May 23, to June 23, 2005 due to her November 25, 2003 employment injury.

[4] *Jackie D. West*, 54 ECAB 158 (2002); *Terry R. Hedman*, 38 ECAB 222 (1986).

[5] 20 C.F.R. § 10.5(x).

[6] *Id*.

[7] Appellant worked limited duty at the time of her November 25, 2003 employment injury; however, she returned to work with additional restrictions following her November 2003 work injury.

Appellant has not alleged a change in the nature and extent of her light-duty job requirements. Instead, she attributed her recurrence of disability to a change in the nature and extent of her employment-related conditions. Appellant must thus provide medical evidence establishing that she was disabled due to a worsening of her accepted work-related conditions, a right knee contusion, right shoulder strain, head contusion and lumbosacral strain.[8]

In support of her claim, appellant submitted a report dated May 23, 2005 from Dr. Cheng, who noted her history of a knee contusion after falling at work. He diagnosed a knee contusion with degenerative joint disease. In a work status report of the same date, Dr. Cheng found that appellant could resume work on June 23, 2005 with restrictions. In another report dated May 23, 2005, Dr. Cheng indicated that appellant could return to limited-duty work on May 26, 2005. His opinion, consequently, is inconsistent as he found both that appellant could return to work with restrictions on June 23, 2005 and that she could return to work with restrictions on May 26, 2005 in reports of the same day. Dr. Cheng did not provide any explanation for the apparent discrepancy in the dates of disability or provide any rationale in support of his conclusions despite repeated requests for clarification from the Office. As his opinion is equivocal in nature and unsupported by medical rationale, it is of diminished probative value.[9]

In a form report dated June 10, 2005, Dr. Cheng diagnosed a knee contusion and checked "yes" that it was caused or aggravated by her employment. He found that she was partially disabled from May 23 to June 2005. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.[10] Further, Dr. Cheng did not find that appellant was totally disabled from May 23 to June 23, 2005 but instead found only partial disability. 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 employees to self-certify their disability and entitlement to compensation.[11]

As appellant failed to submit rationalized medical evidence establishing that she was disabled from May 23 to June 23, 2005 due to her November 25, 2003 employment injury, the Office properly found that she had not established a recurrence of disability.

CONCLUSION

The Board finds that appellant has not established that she sustained a recurrence of disability from May 23 to June 23, 2005 causally related to her accepted employment injury.

[8] *See Jackie D. West*, *supra* note 4.

[9] *Betty M. Regan*, 49 ECAB 496 (1998).

[10] *Deborah L. Beatty*, 54 ECAB 334 (2003).

[11] *Fereidoon Kharabi*, 52 ECAB 291 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 11, 2005 is affirmed.

Issued: May 4, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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