

on June 13, 2006. On July 27, 2006 Dr. John P. Furia, an orthopedic surgeon, stated that appellant's cast was removed and she could return to eight hours of sedentary work on August 3, 2006. Appellant's work hours were reduced to four hours a day by Dr. Batman on August 7, 2006 due to swelling of her ankle. On August 14, 2006 she returned to eight hours of limited duty. On August 25, 2006 Dr. Batman indicated that appellant could work eight hours a day at a sedentary job through September 11, 2006 and could resume regular duty thereafter. Appellant received continuation of pay from June 14 to July 28, 2006 and was on leave without pay (LWOP) from July 29 to August 4, 2006. She subsequently received compensation for lost wages for July 29 to August 25, 2006.

In a Form CA-7 claim for compensation, appellant indicated that on September 6, 2006 she worked for 6.25 hours and was in LWOP status for 1.75 hours. She indicated that she worked for 6.50 hours on September 7, 2006 and was in LWOP status for 1.50 hours.

On September 29, 2006 the Office asked appellant to submit medical evidence establishing that she was disabled from her sedentary job for 1.75 hours on September 6, 2006 and 1.50 hours on September 7, 2006.

By decision dated November 1, 2006, the Office denied appellant's claim on the grounds that the medical evidence did not establish that she was disabled from her sedentary job on September 6 and 7, 2006.¹

LEGAL PRECEDENT

An employee has the burden of proving by the preponderance of the reliable, probative and substantial evidence that she was disabled for work as the result of an employment injury.² Monetary compensation benefits are payable to an employee who has sustained wage loss due to disability for employment resulting from the employment injury.³ Whether a particular employment injury causes disability for employment and the duration of that disability are medical issues which must be proved by a preponderance of reliable, probative and substantial medical evidence.⁴

ANALYSIS

The medical evidence establishes that appellant was released to limited-duty work as of August 3, 2006. Beginning August 7, 2006 she was placed on work restrictions for four hours a day. As of August 14, 2006 appellant was again returned to eight hours a day of limited duty.

¹ Subsequent to the November 1, 2006 Office decision, appellant submitted additional evidence. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

² *David H. Goss*, 32 ECAB 24 (1980).

³ *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990).

⁴ *Edward H. Horten*, 41 ECAB 301 (1989).

Appellant claimed 1.75 hours of compensation for lost wages for September 6, 2006 and 1.50 hours for September 7, 2006. However, there is no medical evidence indicating that she was unable to perform her sedentary job for any periods of time on those dates. Therefore, the Office properly denied her claim for compensation for lost wages for September 6 and 7, 2006.

On appeal, appellant states that she is owed compensation for 7.20 hours for a work week that is not specified. Additionally, there is no final Office decision regarding a 7.20 hour period of time. The issue on appeal is whether she is entitled to compensation for a total of 3.20 hours for September 6 and 7, 2006.

CONCLUSION

The Board finds that appellant failed to establish that she was disabled from her sedentary job for 1.75 hours on September 6, 2006 and 1.50 hours on September 7, 2006 causally related to her accepted right ankle fracture.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 1, 2006 is affirmed.

Issued: April 11, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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