

anterior cruciate ligament, reflex sympathetic dystrophy syndrome of the right leg and a lumbar sprain/strain when she slipped and fell on a wet floor.¹ Appellant underwent repeat arthroscopy on September 9, 2003. She returned to full duty on October 23, 2003. On December 3, 2004 the Office granted appellant a schedule award for a six percent permanent impairment of the right lower extremity due to postsurgical status and a complex regional pain syndrome.²

Appellant remained under treatment for right knee pain, lumbar pain and reflex sympathetic dystrophy syndrome. Dr. Shawn Donatelli, an attending osteopathic physician Board-certified in anesthesiology, followed appellant beginning in 1999 for right knee pain, a recurrent meniscal tear, lumbar pain and reflex sympathetic dystrophy. He submitted periodic reports finding appellant's condition unchanged.³ Appellant's reflex sympathetic dystrophy remained stable or in remission through October 2006. In a November 22, 2006 report, Dr. Donatelli noted continued right knee pain with dysesthesia in the right lower extremity and slightly cool skin. He diagnosed lumbar pain, right knee pain, a torn right medial meniscus and stable reflex sympathetic dystrophy syndrome.

On March 15, 2007 appellant claimed a recurrence of disability commencing February 20, 2007. She asserted that her reflex sympathetic dystrophy syndrome had worsened such that she could not run and had difficulty walking. Appellant stopped work on February 20, 2007.

In a March 28, 2007 letter, the Office advised appellant of the additional factual and medical evidence needed to establish her claim. Appellant was afforded 30 days to submit additional evidence.

In a January 18, 2007 report, Dr. Donatelli related appellant's assertion that her job recently became more physically demanding. He diagnosed stable reflex sympathetic dystrophy syndrome and a torn right medial meniscus. Dr. Donatelli noted in a February 15, 2007 report that appellant was then 20 weeks' pregnant. The knee and lumbar conditions remained unchanged, but he found appellant permanently and totally disabled for work as of March 2, 2007. In a February 20, 2007 letter, Dr. Donatelli reiterated that appellant's conditions were stable since 2000 but that her job recently imposed additional physical demands.

By decision dated June 15, 2007, the Office denied the claim on the grounds that causal relationship was not established. It found that appellant submitted insufficient rationalized medical evidence explaining how and why the accepted lumbar and right lower extremity injuries would cause the claimed recurrence of disability on and after February 20, 2007.

¹ The Office assigned the July 26, 2001 injury File No. xxxxxx467. The February 10, 2003 injury claim was assigned File No. xxxxxx357. Effective August 23, 2006, the Office doubled the two claims under File No. xxxxxx357.

² Appellant filed claims for an augmented schedule award on October 24, 2005 and July 31, 2006. The Office obtained an updated schedule award evaluation on September 16, 2006. There is no final decision of record regarding these claims.

³ A July 8, 2005 magnetic resonance imaging (MRI) scan of appellant's right knee revealed multiple meniscal tears.

Appellant requested an oral hearing, held on October 30, 2007. At the hearing, she asserted that her reflex sympathetic dystrophy syndrome worsened such that she stopped work in February 2007. Because of pregnancy, appellant could not take pain medications. Also, she believed it was unsafe to work in a correctional facility while pregnant. The hearing representative discussed the additional evidence needed to establish the claim, including her position description and documentation of any increased physical demands. Appellant submitted additional evidence.⁴

In an August 1 and 29, 2007 reports, Dr. Donatelli noted that appellant gave birth in June 2007. He stated in a September 26, 2007 report that appellant's right leg and lumbar conditions remained essentially unchanged. In a November 21, 2007 letter, Dr. Donatelli opined that appellant remained disabled for work due to reflex sympathetic dystrophy that made unspecified job tasks "intolerable" and exacerbated her condition.

By decision dated and finalized January 18, 2008, the Office hearing representative affirmed the June 15, 2007 decision, finding that appellant submitted insufficient medical evidence to establish a worsening of her condition. Dr. Donatelli opined that appellant's condition had remained stable since 2000. The hearing representative further found that appellant failed to document any change in her job requirements.

LEGAL PRECEDENT

The Office's implementing regulations define a recurrence of disability as "an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."⁵ When an appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury. This burden includes the necessity of furnishing evidence from a qualified physician, who on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury. Moreover, sound medical reasoning must support the physician's conclusion.⁶ An award of compensation may not be based on surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.⁷

⁴ The employing establishment submitted comments to the hearing transcript asserting that appellant stopped work in February 2007 due to her pregnancy and her desire for a different work schedule.

⁵ 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b(a)(1) (May 1997). *See also Philip L. Barnes*, 55 ECAB 426 (2004).

⁶ *Ricky S. Storms*, 52 ECAB 349 (2001).

⁷ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

ANALYSIS

The Office accepted that appellant sustained right knee sprains, meniscal tears, a torn right anterior cruciate ligament, reflex sympathetic dystrophy syndrome in the right leg and a lumbar sprain. Appellant underwent right knee arthroscopy on January 15, 2002 and September 9, 2003. She returned to full duty after both procedures. In her March 15, 2007 claim for recurrence of disability, appellant alleged that the accepted injuries caused a total disability for work commencing February 20, 2007. She thus has the burden of providing sufficient evidence, including rationalized medical evidence, to establish the causal relationship asserted.⁸

Appellant submitted reports from Dr. Donatelli, an attending osteopathic physician Board-certified in anesthesiology, who found appellant's right lower extremity and lumbar conditions unchanged through February 15, 2007. Dr. Donatelli noted that appellant was 20 weeks' pregnant as of February 15, 2007 and that her job had become more physically demanding. He then found appellant totally disabled for work as of March 2, 2007. Dr. Donatelli emphasized, however, that the accepted conditions remained unchanged. He reiterated in a November 21, 2007 report that appellant was disabled for work due to reflex sympathetic dystrophy although her condition remained stable.

Dr. Donatelli's reports demonstrate that the accepted right lower extremity and lumbar conditions were unchanged in the months before and after February 20, 2007. He provided no medical rationale explaining how and why the accepted conditions would disable appellant for work on and after February 20, 2007. This lack of rationale greatly reduces the probative value of his opinion.⁹ Moreover, appellant asserted the intervening factors of her pregnancy and an alleged change in her job duties aggravated the accepted conditions. She has thus failed to establish a spontaneous change in her accepted conditions without any intervening cause.¹⁰

Appellant was advised by March 28, 2007 letter and at the October 30, 2007 hearing of the evidence needed to establish her claim for recurrence of disability, including a job description and rationalized medical evidence from her attending physician supporting causal relationship. As she did not submit such evidence, she failed to meet her burden of proof.¹¹

CONCLUSION

The Board finds that appellant has not established that she sustained a recurrence of disability commencing February 20, 2007 causally related to accepted lumbar and right lower extremity injuries.

⁸ *Ricky S. Storms, supra* note 6.

⁹ *Roma A. Mortenson-Kindschi, 57 ECAB 418 (2006).*

¹⁰ *Philip L. Barnes, supra* note 5.

¹¹ *Beverly A. Spencer, 55 ECAB 501 (2004).*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 18, 2008 is affirmed.

Issued: December 9, 2008
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