

physician to Dr. Andrew L. Katz, D.P.M., who diagnosed her with a Grade 2 left ankle sprain. Dr. Katz found that appellant could perform a majority of her daily activities without any discomfort and released her for regular duty on August 8, 2005. On October 11, 2005 the Office accepted appellant's claim for a left ankle sprain.

On September 12, 2007 appellant filed a claim alleging a recurrence of her June 1, 2005 employment injury. She claimed that she developed tendinitis in her ankle and that her ankle "has never gotten better so I do not know if it is a recurrence." Appellant did not indicate the date of the recurrence but did state that she stopped work on June 26, 2007.

The Office denied appellant's claim on November 26, 2007, finding that the submitted evidence did not establish that the alleged recurrence of disability resulted from the accepted work injury.

On December 10, 2007 appellant, through her representative, requested a telephonic hearing by an Office hearing representative. This hearing took place on February 25, 2008, where appellant testified that she had not worked since June 26, 2007. Appellant also stated that her ankle was not presently being treated, however, her ankle had been examined by a Dr. Lameer, who was primarily treating her back injury,¹ and by a Dr. Manjikian, who performed a magnetic resonance imaging scan finding tendinosis of the peroneal tendons. Appellant's representative argued that her injury is better characterized as an occupational disease caused by appellant's constant walking on her ankle than a spontaneous recurrence of the June 1, 2005 employment injury.²

On April 7, 2008 the Office issued a decision denying appellant's claim for recurrence of disability. Specifically, it held that appellant did not submit any medical records after August 3, 2005 and therefore there was no medical evidence to support appellant's claims that she sustained a recurrence of her June 1, 2005 employment injury.³

LEGAL PRECEDENT

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 has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."⁴ A person who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable,

¹ Appellant has filed an additional claim for a work-related back injury. According to the record, the claim was assigned a separate file number and is not at issue in this case.

² The Board notes that the issue of an occupational disease is not properly before the Board under 20 C.F.R. § 501.2(c) as the Office has not issued a final decision on the matter.

³ Notably, in a letter dated April 8, 2008, appellant's representative stated that he was attaching a medical report from a Dr. Lameer. This medical report was not attached to the letter, as was acknowledged by the Office in correspondence dated April 26, 2008. Therefore, the Office did not consider any additional medical evidence in its April 7, 2008 decision.

⁴ R. S., 58 ECAB ___ (Docket No. 06-1346, issued February 16, 2007); 20 C.F.R. § 10.5(x).

and probative evidence that the disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that an employee furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.⁵ Where no such rationale is present, medical evidence is of diminished probative value.⁶

ANALYSIS

The Board finds that appellant did not provide sufficient medical evidence to establish that she sustained a recurrence of disability causally related to her accepted employment injury. In order to establish such causation, appellant is required to submit medical rationalized evidence. Here, appellant did not submit any medical evidence dated after August 3, 2005, despite the fact that the recurrence of disability occurred in 2007, and the medical evidence of record relates solely to her June 1, 2005 accepted injury. Moreover, the only evidence relating to appellant's alleged recurrence is the claim form itself and appellant's testimony at her telephonic hearing. As the Board has held, claimants may not self-certify their disability and periods of compensation.⁷ Thus, the Board finds that none of this evidence constitutes medical rationale sufficient to establish causation.

Appellant has the burden of proof to establish a claim for recurrence by submitting the necessary medical evidence.⁸ The record does not contain medical evidence providing a reasoned medical opinion that appellant sustained a recurrence causally related to her June 1, 2005 employment injury. Accordingly, the Board finds that appellant did not meet her burden of proof in establishing causation and the Office properly denied the claim.

CONCLUSION

Appellant has not established by medical evidence that her recurrence of disability was causally related to her June 1, 2005 employment-related injury.

⁵ *I.J.*, 59 ECAB ___ (Docket No. 07-2362, issued March 11, 2008); *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

⁶ *See Ronald C. Hand*, 49 ECAB 113 (1957); *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁷ *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁸ *See Mary A. Ceglia*, 55 ECAB 626 (2004).

ORDER

IT IS HEREBY ORDERED THAT the April 7, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 1, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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