

In a March 12, 2008 report, he released appellant to regular work duties with no restrictions on that date. In a March 26, 2008 report, Dr. John M. Leshner, a Board-certified physiatrist, stated that appellant could return to her regular work duties with no restrictions on that date.

On May 16, 2008 appellant filed a claim (Form CA-7) to buy back leave for the period February 27 to March 27, 2008. In a time analysis form (CA-7a) and leave buyback worksheet (Form CA-7b), she claimed 168.75 hours of leave buyback for the stated period.

In a February 22, 2008 report, Dr. Allison stated that appellant sustained neck pain and strain. Appellant could return to work on March 10, 2008. In a March 3, 2008 report, Dr. Allison found that appellant sustained shoulder pain/strain. Appellant was totally disabled from March 7 to 14, 2008. In a March 20, 2008 report, Dr. Allison stated that appellant suffered from back pain. Appellant could return to work on March 26, 2008.

By letter dated May 27, 2008, the Office accepted appellant's claim for back and neck sprains. It also requested that she submit medical evidence from her attending physician explaining why she was unable to work in light of evidence which established that she was released to light-duty work on February 18, 2008 and later released to full-duty work on March 12, 2008. Appellant was allowed 30 days to submit such evidence. She did not respond.

By decision dated July 30, 2008, the Office denied appellant's claim to buy back leave for the period March 12 to 27, 2008. It modified the period covered by her May 21, 2008 CA-7 form because the evidence established that she was released to light-duty work on February 18, 2008 and subsequently released to regular work duties with no restrictions on March 12, 2008. The Office found that appellant failed to submit medical evidence establishing that she was totally disabled from March 12 to 27, 2008 due to the accepted January 8, 2008 employment-related injuries.¹

In an August 4, 2008 letter, appellant, through counsel, requested a telephonic hearing before an Office hearing representative. In an undated disability certificate, Dr. Allison stated that appellant was not working due to her employment-related neck and back injuries. Appellant was out of work while under his care from March 12 to 27, 2008.

By decision dated January 15, 2009, an Office hearing representative affirmed the July 30, 2008 decision, finding that the medical evidence was insufficient to establish that appellant was totally disabled from March 12 to 27, 2008 causally related to the accepted employment-related injuries.

LEGAL PRECEDENT

Under the Federal Employees' Compensation Act,² appellant has the burden of proving by the preponderance of the reliable, probative and substantial evidence that she was disabled for

¹ In the July 30, 2008 decision, the Office instructed appellant to resubmit a CA-7 form with the "corrected figures" for the period February 27 to March 11, 2008.

² 5 U.S.C. §§ 8101-8193.

work as the result of an employment injury.³ Monetary compensation benefits are payable to an employee who has sustained wage loss due to disability for employment resulting from the employment injury.⁴ 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.⁵

Section 10.425 of the Office's implementing regulations provide as follows:

"The employee may claim compensation for periods of annual and sick leave which are restorable in accordance with the rules of the employing establishment. Forms CA-7 and CA-7b are used for this purpose."⁶

In situations where compensation is claimed for periods when leave was used, the Office has the authority and responsibility to determine whether the employee was disabled during the period, for which compensation is claimed.⁷ It determines whether the medical evidence establishes that an employee is disabled by an employment-related condition during the period claimed for leave buyback, after which the employing establishment will determine whether it will allow the employee to buy back the leave used.⁸

ANALYSIS

In this case, the Office denied appellant's CA-7 and CA-7b claims for leave buyback for the period March 12 to 27, 2008 on the grounds that the evidence failed to establish that she sustained any disability causally related to her accepted January 8, 2008 employment-related back and neck sprains.

Dr. Allison's February 22, 2008 report stated that appellant sustained neck pain and strain. He released her to work on March 10, 2008. However, Dr. Allison did not address whether appellant was totally disabled from March 12 to 27, 2008 due to her accepted employment-related injuries. The Board finds that his report is insufficient to establish appellant's claim.

Dr. Allison's March 3, 2008 report found that appellant sustained shoulder pain/strain. He opined that she was totally disabled from March 7 to 14, 2008. Dr. Allison's March 20, 2008 report stated that appellant suffered from back pain. He released her to work on March 26, 2008.

³ *David H. Goss*, 32 ECAB 24 (1980).

⁴ *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990).

⁵ *Edward H. Horten*, 41 ECAB 301 (1989).

⁶ 20 C.F.R. § 10.425.

⁷ *Laurie S. Swanson*, 53 ECAB 517 (2002); *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.19 (July 2000), which indicates that the Office is responsible for reviewing the medical evidence to determine if it establishes entitlement to compensation for periods during which leave buyback is claimed.

⁸ *Laurie S. Swanson*, *supra* note 7.

However, Dr. Allison did not address whether appellant's disability was causally related to the accepted January 8, 2008 employment injuries.⁹ The Board finds that his reports are insufficient to establish appellant's claim.

Similarly, Dr. Allison's undated disability certificate is insufficient to establish appellant's claim. He stated that she was out of work from March 12 to 27, 2008 while under his care for her employment-related neck and back injuries. Dr. Allison did not address whether appellant's disability was due to the accepted employment-related injuries.¹⁰

Appellant has failed to submit rationalized medical evidence establishing that her disability from March 12 to 27, 2008 resulted from the residuals of her accepted January 8, 2008 employment-related back and neck sprains. The Board finds, therefore, that the Office properly denied her claim for leave buyback for the claimed period.

CONCLUSION

The Board finds that appellant has failed to establish entitlement to leave buyback for total disability from March 12 to 27, 2008 due to her January 8, 2008 employment injuries.

⁹ *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the January 15, 2009 and July 30, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 1, 2009
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