

2007 was causally related to the accepted contusions of her left wrist, left ankle and back. The facts and history contained in the prior appeal are incorporated by reference.

On March 1, 2009 appellant's representative requested reconsideration. In a November 7, 2008 report, Dr. Mohamed Othman, Board-certified in anesthesiology and pain medicine, noted that appellant had a primary complaint of low back pain. She related that her pain began when she fell on the ice about a year prior and it became worse. Dr. Othman noted that appellant received multiple interventional procedures in the form of lumbar epidural steroid injections with bilateral medial branch block, sacroiliac joint injections, left-sided medial branch block and a discography, which was not significant for discogenic pain. He found that she had a significant diffuse disc bulge at L3-4 and degenerative disc disease at L4-5. Dr. Othman also noted that appellant related that she could not stand for more than 15 minutes or walk and had difficulty carrying out everyday activities. On examination she had tenderness over the bilateral sacroiliac (SI), a positive Patrick's test and a positive lumbar facet loading test. Dr. Othman also found that appellant had limited range of motion around the waist due to the severity of the pain and that straight leg raising test was positive. There was no evidence of focal muscle weakness or focal neurological deficits. Dr. Othman diagnosed lumbar degenerative disc disease and lumbar facet syndrome secondary to joint degeneration.

By decision dated May 7, 2009, the Office denied modification of its prior decisions. It found that the opinion of Dr. Othman was not based on the accepted work conditions, but based on a disc bulge at L3-4, L4-5 lumbar degenerative disc disease and lumbar facet syndrome, which were not accepted as arising from the January 13, 2007 injury.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act,² has the burden of proof to establish the essential elements of her claim by the weight of the evidence,³ including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.⁴

As used in the Act, the term "disability" means incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury.⁵ When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in her employment, she is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity.⁶

² 5 U.S.C. §§ 8101-8193.

³ *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *Richard T. DeVito*, 39 ECAB 668 (1988); *Frazier V. Nichol*, 37 ECAB 528 (1986); *Elden H. Tietze*, 2 ECAB 38 (1948); 20 C.F.R. § 10.5(f).

⁶ *Bobby W. Hornbuckle*, 38 ECAB 626 (1987).

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.⁷ Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.⁸ 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.⁹

ANALYSIS

In support of her claim for disability commencing March 3, 2007, appellant provided a November 7, 2008 report from Dr. Othman, who noted that appellant had complaints of low back pain. The pain began when she fell on the ice about a year prior. Dr. Othman diagnosed a significant diffuse disc bulge at L3-4 with degenerative disc disease at L4-5 and lumbar facet syndrome secondary to joint degeneration. The Board notes that these conditions were not accepted by the Office. Dr. Othman did not provide any opinion regarding the cause of these conditions other than to note that appellant's condition was secondary to joint degeneration. The Board has long held that 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 The Board also notes that Dr. Othman did not address whether appellant was disabled for work on or after March 3, 2007 as a result of her accepted contusions to the back, left ankle and left wrist. His opinion is insufficient to establish that appellant was disabled beginning March 3, 2007 as a result of her accepted injury.

Appellant alleged that she was disabled beginning March 3, 2007 as a result of her accepted employment injury. The medical evidence of record, however, does not establish that her disability is related to her accepted employment injury. Appellant failed to submit rationalized medical evidence establishing that her disability commencing March 3, 2007 is causally related to her accepted injury.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained disability beginning March 3, 2007 causally related to her accepted conditions.

⁷ See *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001); *Edward H. Horton*, 41 ECAB 301,303 (1989).

⁸ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008); see *Huie Lee Goal*, 1 ECAB 180,182 (1948).

⁹ See *G.T.*, *id.*; *Fereidoon Kharabi*, *supra* note 7.

¹⁰ *Michael Smith*, 50 ECAB 313 (1999).

ORDER

IT IS HEREBY ORDERED THAT the May 7, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 26, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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