

left knee arthroscopy with removal of a loose body on December 20, 2007. On February 15, 2008 the Office accepted loose body in the left knee.

Appellant's attending physician, Dr. Mark Buchanan, a Board-certified orthopedic surgeon, released her to return to work with restrictions on February 4, 2008. On March 4, 2008 he indicated that appellant could return to work without restrictions that day. The rehabilitation nurse noted on May 2, 2008 that appellant reported that she twisted her left knee at work on April 24, 2008. On April 29, 2008 Dr. Buchanan diagnosed work-related left knee pain and stated that appellant could work with restrictions on April 29, 2008.

In a letter dated May 19, 2008, the Office directed appellant to file a new traumatic injury claim if she injured her knee at work on April 24, 2008. It also noted that she had requested authorization of a total knee replacement on the left and to submit medical evidence addressing the causal relationship between the requested surgery and her accepted employment injury.

In a report dated July 30, 2008, Dr. Scott B. Neff, an osteopath, diagnosed osteoarthritis of the left knee. He recommended a total left knee replacement. Dr. Neff stated, "She has had so many symptoms that you have appropriately taken her off work from her job as a TSA screener."

Appellant filed a claim for compensation requesting wage-loss compensation from July 24 through August 2, 2008. She submitted a July 25, 2008 note from a physician's assistant indicating that appellant should be excused from work from July 25 through 30, 2008.

In a form report dated July 23, 2008, Dr. Robert H. Major, a family practitioner, indicated that appellant could return to work with restrictions on that date.

Appellant filed a recurrence of disability claim on August 2, 2008 alleging that she was totally disabled due to knee swelling, pain and give way symptoms of her left knee. She stopped work on July 30, 2008. A note dated July 30, 2008 from Dr. Neff's office indicated that appellant was totally disabled beginning July 30, 2008.

In a letter dated August 14, 2008, the Office stated that appellant had sustained a new work injury and that a new claim number had been assigned to her claim. It stated that her claim for recurrence had been administratively closed.

On September 8, 2008 the Office requested additional information from appellant regarding her claim for compensation from July 24 through August 2, 2008. It allowed 30 days for a response.

On September 5, 2008 Dr. Neff again recommended a left knee replacement. He stated, "I think her work injury on August 12, 2007, probably made her symptoms more prominent, but I do not think it actually did structural damage."

In a decision dated December 18, 2008, the Office denied appellant's claim for compensation, finding that she failed to submit sufficient medical opinion evidence to establish that she was totally disabled from July 24 to August 2, 2008 due to her accepted employment injury.

Appellant, through her attorney, requested an oral hearing on December 27, 2008. A telephonic hearing took place on April 7, 2009. Appellant stated that she stopped work on July 24, 2008 due to swelling in her left knee. She took medication which affected her ability to perform the duties of her position such as operating the x-ray machine. Appellant returned to light-duty work on August 3, 2008. She noted that she filed a claim for an injury on April 24, 2008. Appellant stated that she underwent a total knee replacement on September 16, 2008 and had since returned to full duty.

Following the oral hearing, appellant submitted the September 16, 2008 surgical report from Dr. Neff regarding her left total knee arthroplasty. Dr. Neff also completed a report on May 20, 2009 and related appellant's history of left knee surgeries.

By decision dated July 21, 2009, an Office hearing representative found that the medical evidence was not sufficient to establish that appellant was totally disabled from July 24 through August 2, 2008 due to residuals of her accepted left knee condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.³

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.⁴ 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.⁵ 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.⁶

¹ 5 U.S.C. §§ 8101-8193.

² *G.T.*, 59 ECAB ___ (Docket No. 07-1345, issued April 11, 2008); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ 20 C.F.R. § 10.5(f); *see, e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

⁴ *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁵ *Id.*

⁶ *Id.*

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.⁷ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸ Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

ANALYSIS

The Office accepted that appellant sustained a contusion of the left knee, left medial meniscus tear and loose body in the left knee due to her August 12, 2007 employment injury. Appellant's attending physician released her to return to full duty on March 4, 2008. The record indicates that, after her return to work, appellant alleged another employment injury on April 24, 2008 impacting her left knee.

Appellant filed a claim for wage-loss compensation from July 24 through August 2, 2008. Dr. Neff, an osteopath, completed reports on July 30 and September 5, 2008. He diagnosed osteoarthritis of the left knee and recommended a total left knee replacement. Dr. Neff stated, "[Appellant] has had so many symptoms that you have appropriately taken her off work from her job as a TSA screener." He indicated that appellant was totally disabled beginning July 30, 2008. Dr. Neff stated, "I think her work injury on August 12, 2007, probably made her symptoms more prominent, but I do not think it actually did structural damage." The reports of Dr. Neff are not sufficient to establish disability for the claimed period. Dr. Neff did not offer any opinion on the causal relationship between appellant's disability for work as of July 30, 2008 and her accepted left knee condition. He noted only that appellant had been taken off work as of July 30, 2008. Dr. Neff also suggested that appellant's August 12, 2007 injury did not result in any change in the underlying pathology to her left knee. He did not adequately explain appellant's disability for work and its relationship to her accepted employment injury. Dr. Neff did not provide sufficient medical opinion addressing how residuals of the accepted condition had changed as of July 30, 2008 to cause or contribute to disability commencing that day.

Appellant submitted a note from a physician's assistant dated July 25, 2008 indicating that she should be excused from work from July 25 through 30, 2008. However, a physician's assistant is a not physician as defined under the Act and this opinion is of no probative medical value.¹⁰

⁷ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁸ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹⁰ *Roy L. Humphrey*, 57 ECAB 238 (2005). See 5 U.S.C. § 8101(2).

In a form report dated July 23, 2008, Dr. Major, a family practitioner, indicated that appellant could return to work with restrictions on that date. This report does not support appellant's claim for total disability beginning July 24, 2008. Dr. Major opined that appellant was not totally disabled and suggested that she could work with restrictions. Appellant testified at the oral hearing that she was not able to work from July 24 through August 2, 2008 as her pain medications interfered with her job functions. However, the Board will not require the Office to pay compensation for disability in the absence of rationalized medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify her disability and entitlement to compensation.¹¹ The medical evidence from Dr. Major does not support that appellant was totally disabled from July 24 to August 2, 2008.

CONCLUSION

The Board finds that appellant has not submitted the necessary medical opinion evidence to establish that she was totally disabled from July 24 to August 2, 2008 due to her accepted left knee injuries of August 12, 2007.

ORDER

IT IS HEREBY ORDERED THAT July 21, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 2, 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

¹¹ *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008).