



knee and ankle. It subsequently accepted a torn medial meniscus of the left knee, left knee chondromalacia and related surgery. Appellant underwent arthroscopic left knee surgery on May 25, 2006. Effective August 20, 2006, the Office began paying her compensation for temporary total disability. Appellant was medically released to modified duty as of September 27, 2007.

Appellant filed a claim for a recurrence of disability on September 24, 2008. On the claim form, the employing establishment noted that appellant had been out of work since June 20, 2007 under a separate claim. Her compensation related to that claim was terminated by the Office on May 27, 2008.

In a September 5, 2008 report, Dr. Sean L. Lager, an attending Board-certified orthopedic surgeon, noted that appellant had left knee arthroscopic surgery in May 2006<sup>1</sup> and a decompression and fusion of her lumbosacral spine on August 11, 2008. He provided findings on physical examination that included no erythema or warmth over the left knee joint and normal muscle tone. Appellant had 110 degrees of left leg flexion with pain versus 115 degrees of flexion of the right leg. X-rays of the left knee revealed no evidence of fracture, dislocation or tumor. There was medial compartment narrowing. An osteochondritis dissecans (OCD) lesion was noticeable but there was no significant depression in the medial femoral condyle (MFC) lesion. Dr. Lager noted that appellant was unable to comply with post back surgery nonweight-bearing protocol due to back pain, most likely caused by her medial femoral condyle lesion. He opined that she would benefit from partial knee replacement surgery in the future after she completed physical therapy related to her spine surgery.

By decision dated December 5, 2008, the Office denied appellant's claim for a recurrence of disability on September 24, 2008, finding that the medical evidence failed to establish that her disability was causally related to the March 8, 2006 accepted left knee and ankle conditions.

Appellant requested an oral hearing with an Office hearing representative. A telephonic hearing was held on March 20, 2009.

By decision dated May 18, 2009, an Office hearing representative affirmed the December 5, 2008 decision.

### **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."<sup>2</sup> An employee 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 and probative evidence that the disability for which he or she claims compensation is

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<sup>1</sup> The 2006 operative report is not of record. However, a consultation record dated May 27, 2006 indicates that appellant underwent a left knee partial medial meniscectomy.

<sup>2</sup> R.S., 58 ECAB 362 (2007); 20 C.F.R. § 10.5(x).

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 reasoning.<sup>3</sup> Where no such rationale is present, medical evidence is of diminished probative value.<sup>4</sup>

### ANALYSIS

Appellant has the burden to provide medical evidence establishing that she sustained a recurrence of disability on September 24, 2008 causally related to her March 8, 2006 accepted left knee and ankle conditions.

Appellant filed a claim for a recurrence of disability on September 24, 2008. The employing establishment noted that she had been out of work since June 20, 2007 under a separate claim and her compensation related to that claim was terminated by the Office on May 27, 2008. In a September 5, 2008 report, Dr. Lager noted that appellant had left knee arthroscopic surgery in May 2006 and a decompression and fusion of her lumbosacral spine on August 11, 2008. He provided findings on physical examination that included no erythema or warmth over the left knee joint and normal muscle tone. Appellant had 110 degrees of left leg flexion with pain versus 115 degrees of flexion of the right leg. X-rays of the left knee revealed no evidence of fracture, dislocation or tumor. There was no significant depression in the medial femoral condyle lesion. Dr. Lager noted that appellant was unable to comply with post back surgery nonweight-bearing protocol due to back pain most likely related to her medial femoral condyle lesion. He opined that she would benefit from partial knee replacement surgery in the future after she completed physical therapy related to her spine surgery. However, Dr. Lager did not provide a rationalized medical opinion explaining how appellant became disabled due to her accepted left knee and ankle conditions. He did not explain how her findings on physical examination supported her inability to work modified duty as of September 24, 2008. X-rays revealed no fracture, dislocation or tumor and no abnormality in the medial femoral area where she underwent surgery in 2006 was found. Dr. Lager noted that appellant was experiencing back problems that were the subject of a separate claim. She stopped work due to her back condition more than one year prior to her claim for a September 24, 2008 recurrence of disability that she attributed to her left knee condition. Additionally, appellant underwent back surgery on August 11, 2008, shortly before she claimed a recurrence of disability due to her 2006 left knee and ankle conditions. For these reasons, the medical evidence does not establish that appellant sustained a recurrence of disability on September 24, 2006 causally related to her March 8, 2006 accepted left knee and ankle conditions.

On appeal, appellant contends that the Office's decisions are contrary to fact and law. As noted, however, the medical evidence does not establish that she sustained a recurrence of disability in September 2008 causally related to her March 8, 2006 employment injury. The Office properly denied her claim for a recurrence of disability.

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<sup>3</sup> *I.J.*, 59 ECAB \_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

<sup>4</sup> *See Ronald C. Hand*, 49 ECAB 113 (1957); *see also Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

**CONCLUSION**

The Board finds that appellant failed to meet her burden of proof to establish that she had a recurrence of disability on September 24, 2008 causally related to her March 8, 2006 left knee and ankle conditions.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated May 18, 2009 and December 5, 2008 are affirmed.

Issued: March 1, 2010  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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