

The Office referred appellant, together with a statement of accepted facts and the medical record, to Dr. Andrew G. Cordista, a Board-certified orthopedic surgeon, for a current medical evaluation. In July 2009, Dr. Cordista related appellant's history of injury, current symptoms and his findings on physical examination. He noted that appellant had mid-to-low back pain and chronic bilateral leg radicular symptoms. Dr. Cordista added that she had degenerative findings on her original imaging studies and degenerative changes on current x-rays. He stated "I feel that it is the degenerative changes that are resulting in her chronic pain at this time."

Responding to questions posed by the Office, Dr. Cordista stated that the accepted medical conditions had resolved and that appellant had chronic degenerative findings resulting in her pain. He stated that the pain from her chronic degenerative findings prevented her from working as a transportation security screener.

On September 30, 2009 the Office terminated appellant's compensation benefits. It found that Dr. Cordista's opinion carried the weight of the medical opinion evidence and established that she no longer had any disability or residuals due to the accepted medical conditions. The Office noted that there were no other contemporary medical reports on file.

Appellant requested reconsideration. She submitted medical reports from as early as 2004 to document her physical limitations and constant pain. Reports reasonably contemporaneous to Dr. Cordista's included a January 5, 2009 report on appellant's frozen left shoulder. On October 16, 2009 Dr. Patricia A. Hogan, a Board-certified family physician, advised that appellant had been her patient since January 2001 for routine medical care. She stated "I have also managed [appellant's] chronic back pain since she was released from workman's comp[ensation]. [Appellant's] back condition remains stable and unchanged." On November 28, 2009 another medical report on appellant's frozen left shoulder or adhesive capsulitis indicated that she should be referred to neurology for possible cervical radiculopathy.

In a decision dated December 23, 2009, the Office reviewed the merits of appellant's case and denied modification of its prior decision. It found that the additional medical evidence was insufficient to shift the weight from Dr. Cordista's opinion.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.¹ Once the Office accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.² When it meets its burden of proof in justifying termination of compensation benefits, the burden is on the claimant to establish that any subsequent disability is causally related to the accepted employment injury.³ As used in the Act, the term "disability"

¹ 5 U.S.C. § 8102(a).

² *Harold S. McGough*, 36 ECAB 332 (1984).

³ *Maurice E. King*, 6 ECAB 35 (1953); *Wentworth M. Murray*, 7 ECAB 570 (1955) (after a termination of compensation payments, warranted on the basis of the medical evidence, the burden shifts to the claimant to show by the weight of the reliable, probative and substantial evidence that, for the period for which he claims compensation, he had a disability causally related to the employment resulting in a loss of wage-earning capacity).

means the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury.⁴

It is not sufficient for the claimant to establish merely that she has disability for work. She must establish that her disability is causally related to the accepted employment injury. The Act provides compensation only for as long as there remains a proven physical or related impairment attributable to the injury. The claimant must submit a rationalized medical opinion that supports a causal connection between her current disabling condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the employment injury and must explain from a medical perspective how the current disabling condition is related to the injury.⁵

ANALYSIS

The Office terminated appellant's compensation on September 30, 2009 on the grounds that the July 2009 opinion of Dr. Cordista, the Board-certified orthopedic surgeon and Office referral physician, represented the weight of the medical opinion evidence. Dr. Cordista concluded that the accepted medical conditions had resolved and that appellant was currently suffering from chronic degenerative changes in the lumbar and thoracic spine. There were no contemporaneous medical opinions to the contrary.

Appellant thereafter requested reconsideration of her case. She has the burden of proof to establish that any disability on or after September 30, 2009 was causally related to what happened on February 10, 2004. Much of what appellant submitted bore no apparent relationship to catching a falling suitcase in 2004, such as a rash or left calf pain or pain in her left shoulder beginning in May 2008. None of the medical reports discussed what happened on February 10, 2004 or tried to explain how any of her medical conditions were causally related to the employment injury. Dr. Hogan, the Board-certified family physician, advised that appellant had managed her chronic back pain since appellant was released from workers' compensation, but the fact that her back condition had remained stable and unchanged since that time in no way negates Dr. Cordista's opinion that she was now suffering from chronic degenerative changes in the lumbar and thoracic spine, not from the accepted medical conditions.

The Board finds that appellant has not met her burden of proof. The medical evidence she submitted does not directly address the issue in her case, which is whether she has any disability on or after September 30, 2009 that is causally related to what happened on February 10, 2004. The Office does not deny that appellant has pain or physical limitations. It denies that she has submitted a well-reasoned medical opinion soundly explaining how her current medical condition is causally related to the February 10, 2004 injury at work. The Board agrees and will affirm the Office's December 23, 2009 decision denying continuing compensation benefits.

⁴ *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) (defined).

⁵ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that her disability on or after September 30, 2009 is causally related to her February 10, 2004 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the December 23, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 3, 2011
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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