

FACTUAL HISTORY

Appellant, a 56-year-old mail processing clerk, injured her left shoulder in the performance of duty on May 5, 2012.² OWCP accepted her traumatic injury claim (Form CA-1) for left shoulder acromioclavicular sprain and left shoulder calcifying tendinitis. Beginning May 23, 2012, appellant worked full time at limited duty. Her physician, Dr. Mark A. Goldstein, precluded driving and all reaching above left shoulder. He also precluded all pushing, pulling and lifting with the left arm. In a July 2, 2012 follow-up examination, Dr. Goldstein extended the above-noted work restrictions.

The employing establishment subsequently removed appellant from the workroom floor and assigned her to the standby area pending a determination of whether there was available work within her July 2, 2012 restrictions. The employing establishment's search concluded on July 10, 2012 with no suitable positions identified. A subsequent search encompassing the local commuting area also failed to identify any suitable work within appellant's limitations. This latter job search concluded on September 6, 2012 and the employing establishment apprised appellant of the results on or after September 14, 2012.³

Appellant had no specific duties in the standby area. The employing establishment noted that appellant was expected to report to work and remain on standby with pay until either her restrictions could be lifted or until the local and city-wide job searches were completed. Appellant characterized the standby area as the "cage" and reportedly told her supervisor that she would not be put in a cage like an animal. Rather than remain on temporary standby, she stopped work and filed a claim for wage-loss compensation beginning July 13, 2012. Appellant considered the cage assignment disrespectful and refused to sit and do nothing.

In an August 22, 2012 work status report, Dr. Goldstein noted that appellant was placed off work from July 13 through August 25, 2012. He explained that light-duty work had effectively not been accommodated, and therefore, appellant should be considered temporarily totally disabled. Dr. Goldstein's August 27, 2012 follow-up examination report similarly noted that the employing establishment had not accommodated appellant's light-duty restrictions, and therefore, she was considered disabled through September 10, 2012. The September 10, 2012 follow-up examination and work status reports extended appellant's status through October 2, 2012. Dr. Goldstein again explained that appellant had not been accommodated, and therefore, off work and considered totally disabled. On October 1, 2012 he continued to find her disabled because the employing establishment had not provided light-duty work. Dr. Goldstein indicated that, if light-duty work was available, appellant could not reach above left shoulder and was precluded from pushing, pulling and lifting with the left arm.

On November 7, 2012 OWCP advised appellant that she would receive disability compensation beginning September 15, 2012 because of the employing establishment's inability

² Appellant was injured lifting a 35- to 40-pound parcel from a conveyor belt for placement in an all-purpose container.

³ The left upper extremity work restrictions Dr. Goldstein first imposed on May 21, 2012 remained in effect through August 30, 2012.

to accommodate her work restrictions. With respect to the claimed period July 13 through September 14, 2012, OWCP explained that further development was necessary, including the submission of medical evidence to establish that appellant was totally disabled during that two-month period.

OWCP did not receive any additional medical evidence relevant to July 13 through September 14, 2012.

By decision dated January 7, 2013, OWCP denied appellant's claim for wage-loss compensation for the period July 13 through September 14, 2012.

LEGAL PRECEDENT

A claimant has the burden of establishing the essential elements of his or her claim, including that the medical condition for which compensation is claimed is causally related to the employment injury.⁴ For wage-loss benefits the claimant must submit medical evidence showing that the condition claimed is disabling.⁵ The evidence submitted must be reliable, probative and substantial.⁶ Benefits are available only while the effects of a work-related condition continue.⁷ Compensation for wage loss due to disability is available for periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.⁸ The employee is responsible for providing sufficient medical evidence to support payment of any compensation sought.⁹

ANALYSIS

The record reflects that on July 2, 2012 the employing establishment placed appellant on a paid standby status while it conducted a search for available work within her restrictions. Dr. Goldstein precluded driving, reaching above left shoulder and pushing/pulling/lifting with the left arm. These restrictions were in effect from May 21 through August 30, 2012. Appellant refused to participate in the standby status and stopped work as of July 13, 2012. Dr. Goldstein subsequently stated that she was temporarily totally disabled beginning July 13, 2012 because

⁴ 20 C.F.R. § 10.115(e) (2011); see *Tammy L. Medley*, 55 ECAB 182, 184 (2003). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁵ 20 C.F.R. § 10.115 (f).

⁶ *Id.* at § 10.115.

⁷ *Id.* at § 10.500(a).

⁸ *Id.*

⁹ *Id.* at § 10.501(a).

the employing establishment could not accommodate light-duty work. He considered her temporarily totally disabled through October 1, 2012 and beyond.

The Board finds that OWCP properly denied appellant's claim for disability compensation from July 13 through September 14, 2012. Although Dr. Goldstein indicated that he considered appellant totally disabled during the above-noted period, the left upper extremity restrictions he first imposed in May 2012 essentially remained unchanged during the claimed period. In an October 1, 2012 report, he noted that appellant was precluded from reaching above left shoulder and no pushing/pulling/lifting with the left arm. The only difference between the May 21 and October 1, 2012 restrictions was that appellant was no longer precluded from driving. Thus, the medical evidence establishes that appellant was able to work during the claimed period, albeit in a light-duty capacity.

While appellant reportedly disliked being assigned to the "cage area," there is no evidence that her placement on paid standby status was inconsistent with the physical restrictions Dr. Goldstein imposed at the time. In fact, the stated purpose of removing appellant from the workroom floor and placing her on a paid standby status was to locate suitable work within her restrictions. Appellant was required to report for duty and essentially await the results of the employing establishment's limited-duty job search, but she chose not to work on standby. Under the circumstances, she failed to establish entitlement to wage-loss compensation for the period July 13 through September 14, 2012.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision.¹⁰

CONCLUSION

Appellant failed to establish that she was temporarily totally disabled from July 13 through September 14, 2012.

¹⁰ See 5 U.S.C. § 8128 (a); 20 C.F.R. §§ 10.605, 10.607.

ORDER

IT IS HEREBY ORDERED THAT the January 7, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 14, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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