



## **FACTUAL HISTORY**

OWCP accepted that on March 2, 2015 appellant, then a 38-year-old employing establishment supervisor, sustained a left foot injury when a general purpose container (GPC) fell on top of her left foot. She stopped work on March 6, 2015. OWCP accepted her claim for left foot contusion.

Appellant was initially examined in urgent care on March 6, 2015 by Dr. Idaylis Morono Ponce, a family practitioner. Dr. Ponce noted that she worked for the employing establishment and was involved in an accident on March 2, 2015 when she was struck by a falling object. He completed a state workers' compensation form and indicated that appellant was unable to return to work. In a narrative report dated March 6, 2015, Dr. Ponce related that she had moderate soft-tissue tenderness in the left medial and dorsal foot, and moderate tenderness of the dorsal aspect of the midfoot. He noted abnormal limping and gait. Dr. Ponce diagnosed single contusion of the left foot with no hematoma or skin abrasion.

On March 6, 2015 appellant underwent an x-ray examination by Dr. Ricardo C. Cury, a Board-certified diagnostic radiologist, who reported no evidence of acute fracture or malalignment and no substantial degenerative change.

The employing establishment completed a (Form CA-16), authorization for examination, signed by a supervisor, which indicated that appellant was authorized to seek medical treatment with Southernmost Foot and Ankle Clinic. On the reverse side of the claim form, on March 25, 2015 a podiatrist with an illegible signature, completed the attending physician's form and reported that on March 2, 2015 a GPC fell on her foot. He diagnosed contusion with no visible fracture. The podiatrist checked a box marked "yes" that appellant's condition was caused or aggravated by the described employment activity. He noted that appellant was totally disabled beginning March 25, 2015.

In an April 15, 2015 progress note, Dr. Dmitry Sandler, a podiatrist, examined appellant for complaints of no significant improvement with regard to her left foot pain. He reviewed appellant's history and conducted an examination. Dr. Sandler observed no musculoskeletal changes, no motor weakness, and no sensory changes.

On April 23, 2015 appellant filed a (Form CA-7) claim for disability compensation for the period April 16 to May 1, 2015.

By letter dated April 30, 2015, OWCP advised appellant that the evidence received was insufficient to support her claim for disability compensation. It requested that she submit medical evidence to establish that she was unable to work for the period April 16 to May 1, 2015 as a result of her accepted employment injury.

Appellant resubmitted Dr. Ponce's March 6, 2015 report and Dr. Sandler's April 15, 2015 progress note.

In an undated attending physician's report, Dr. Sandler noted that on March 2, 2015 a GPC fell on appellant's foot. He reported findings of pain on palpation, edema, and left foot

contusion. Dr. Sandler diagnosed contusion and neuralgia. He indicated that appellant was disabled beginning March 2, 2015.

On May 8, 2015 appellant underwent a magnetic resonance imaging (MRI) scan of the left foot by an unknown provider. The examination revealed no bone marrow edema, fracture, or joint effusion and no acute ligamentous or tendon tear.

In a May 13, 2015 work capacity evaluation form, Dr. Sandler indicated that appellant was able to work four hours with limitations of no walking, standing, bending, stooping, pushing, pulling, lifting, squatting, kneeling, climbing, or operating of a motor vehicle. He also noted that she must ambulate with a walker at all times.

In a June 8, 2015 decision, OWCP denied appellant's claim finding insufficient medical evidence to establish that she was unable to work from April 16 to May 1, 2015 as a result of her March 2, 2015 employment injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA bears the burden of proof to establish the essential elements of his or her claim by the weight of the evidence. For each period of disability claimed, the employee must establish that she was disabled for work as a result of the accepted employment injury.

Whether a particular injury causes an employee to become disabled for work and the duration of that disability are medical issues that must be proved by a preponderance of reliable, probative, and substantial medical opinion evidence.<sup>3</sup> Findings on examination and a physician's opinion, supported by medical rationale, are needed to show how the injury caused the employee disability for his or her particular work.<sup>4</sup> For each period of disability claimed, the employee must establish that she was disabled for work as a result of the accepted employment injury. The Board will not require OWCP to pay compensation for disability in the absence of 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 his or her disability and entitlement to compensation.<sup>5</sup>

### **ANALYSIS**

OWCP accepted appellant's claim for left foot contusion as a result of the March 2, 2015 employment injury. Appellant stopped work on March 6, 2015. She filed a claim for disability compensation for the period April 16 to May 1, 2015. In a decision dated June 8, 2015, OWCP denied appellant's disability compensation claim finding insufficient medical evidence to establish that she was unable to work for the claimed period as a result of her March 2, 2015 employment injury.

---

<sup>3</sup> *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, 55 ECAB 674 (2004).

<sup>4</sup> *Dean E. Pierce*, 40 ECAB 1249 (1989).

<sup>5</sup> *Amelia S. Jefferson*, *supra* note 3.

Appellant was initially treated by Dr. Ponce in urgent care. In a March 6, 2015 note and narrative report, Dr. Ponce related that she was injured at work on March 2, 2015 when she was struck by a falling object. He reviewed appellant's history and conducted an examination. Dr. Ponce observed moderate soft-tissue tenderness in the left medial and dorsal foot and moderate tenderness of the dorsal aspect of the midfoot. He diagnosed single contusion of the left foot with no hematoma or skin abrasion. Dr. Ponce completed a state workers' compensation form which indicated that appellant was unable to work. Although he advised that she was unable to work, he did not provide any dates of her inability to work or any opinion on the cause of her work stoppage. The Board has found that medical evidence that does not address the specific period of disability in question and does not offer an opinion regarding the cause of the alleged disability is of limited probative value.<sup>6</sup> Similarly, Dr. Sandler's reports provided no opinion regarding the dates of disability in question and the cause of appellant's inability to work. As none of these reports provide any medical rationale for how the March 2, 2015 employment injury caused appellant's disability for this period, these reports are insufficient to establish appellant's disability compensation claim.

The additional diagnostic reports are also insufficient to establish appellant's claim. Neither the March 6, 2015 x-ray report by Dr. Cury nor the May 8, 2015 MRI scan report by an unknown provider addressed the relevant issue of disability from employment. Thus, these reports are also insufficient to establish appellant's disability compensation claim.<sup>7</sup>

While the attending physician's report on the March 25, 2015 CA-16 authorization form, with an illegible signature by a podiatrist, indicated by checkmark that appellant was disabled as of March 25, 2015, the Board has held that a report that offers only a checkmark to settle the issue of causal relationship is of diminished probative value and is insufficient to establish causal relationship.<sup>8</sup>

On appeal, appellant stated that she did not receive any wage-loss compensation from OWCP since she was injured. She noted that she submitted all of her medical documents. Although appellant alleged that she was disabled for the period April 16 to May 1, 2015 as a result of her accepted employment injury, the medical evidence of record does not establish that her claimed disability during the above timeframe was related to her March 2, 2015 employment injury. The Board finds that she has failed to submit rationalized medical evidence establishing that her disability for the period April 16 to May 1, 2015 was causally related to her accepted employment injury. Accordingly, appellant has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

---

<sup>6</sup> *Supra* note 3.

<sup>7</sup> *Sandra D. Pruitt*, 57 ECAB 126 (2005).

<sup>8</sup> *See Calvin E. King, Jr.*, 51 ECAB 394 (2000); *see also Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she was disabled from work for the period April 16 to May 1, 2015 causally related to her March 2, 2015 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 8, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 12, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board