

injured both knees due to a slip and fall on a wet floor at work. OWCP administratively accepted her claim without formally adjudicating it.

The findings of October 31, 2012 x-rays of appellant's knees revealed that she previously underwent a total knee replacement for her left knee with satisfactory results and had multi-compartmental degenerative disease of her right knee.

Appellant returned to regular duty for the employing establishment on November 3, 2012. She was given work limitations on November 23, 2012, but she was again released to regular duty on December 3, 2012.

A magnetic resonance imaging (MRI) scan of appellant's right knee, obtained on December 13, 2012, showed a complex tear of her right medial meniscus and severe arthritis in the medial compartment. In a February 14, 2013 report, Dr. Robert Mochizuki, an attending Board-certified orthopedic surgeon, discussed the severe preexisting osteoarthritis of her right knee and the symptoms, which necessitated injections of the right knee. He described the complex tear of appellant's right medial meniscus shown on the December 13, 2012 MRI scan and recommended arthroscopic surgery. Dr. Mochizuki continued her on regular duty.

By decision dated March 4, 2013, OWCP accepted appellant's claim for bilateral contusions of her knees and fingers.² Appellant received disability compensation on the daily rolls beginning March 28, 2013.

Dr. Mochizuki performed right knee surgery on March 29, 2013 including arthroscopic resection of a torn portion of appellant's medial meniscus, tricompartmental synovectomy, and chondroplasty of her medial femoral condyle and patella. The procedures were authorized by OWCP.

Dr. Mochizuki carried out follow-up examinations after the surgery and opined that appellant could return to regular duty on May 20, 2013. Appellant returned to regular duty on May 21, 2013. In a report dated June 27, 2013, Dr. Mochizuki indicated that appellant reported that she had been taken off work by her primary physician for "mental exhaustion." He noted that appellant's right knee complaints included pain with weight bearing activities, soft tissue swelling without effusion, and tenderness. Dr. Mochizuki placed her on sedentary duties. In a report dated September 26, 2013, appellant reported experiencing increased discomfort in her right knee and being helped up the stairs in her home by her husband. Dr. Mochizuki placed her on total disability. Appellant's right knee condition began to improve shortly thereafter and Dr. Mochizuki returned appellant to her regular work on December 20, 2013.

In a February 18, 2014 report, Dr. Mochizuki reported that appellant was again complaining of increased right knee discomfort. He recommended a total right knee replacement

² OWCP later updated the accepted conditions to include old bucket handle tear of the medial meniscus of appellant's right knee and joint pain in her right lower leg.

and indicated that appellant was to continue her regular work duties.³ On March 27, 2014 Dr. Mochizuki indicated that appellant was reporting that her right knee was swollen, stiff, and painful at the end of her work shift. He continued to find that she could perform her regular work. In a May 8, 2014 report, Dr. Mochizuki reported that appellant requested medical limitations because she had difficulty with climbing and walking activities. He placed her on limited-duty work effective May 8, 2014.⁴

On June 24, 2014 Dr. Mochizuki indicated that appellant had stopped working due to a foreign body in her left foot that caused an infection. On November 4, 2014 he reported that she was still awaiting approval for the total right knee replacement. Dr. Mochizuki noted that appellant was now indicating pain in her right hip and increasing discomfort in her right knee. He added the diagnoses of synovitis of the right hip and foreign body of the left foot and took her off work.

On November 17, 2014 Dr. Mochizuki indicated that appellant was complaining of worsening pain in her knee as well as pain in her left lower back. He continued to keep her on total disability.⁵

On November 19, 2014 appellant filed a claim for compensation (Form CA-7) requesting compensation from November 4 to 16, 2014.⁶

By letter dated December 18, 2014, OWCP advised appellant of the medical evidence necessary to establish her claim for a work-related recurrence of disability beginning November 4, 2014. It indicated that her claim had not been accepted for a degenerative knee condition and that a comprehensive narrative medical report was needed from her physician to explain the relationship of the claimed disability to her October 30, 2012 work injury.⁷

In a report dated December 23, 2014, Dr. Mochizuki indicated that appellant injured her right knee when she fell at work on October 30, 2012. He reported findings on physical examination noting swelling and tenderness in her right knee. Dr. Mochizuki opined that appellant injured her right knee, causing a tear of her medial meniscus and progression of the underlying chondromalacia of her medial femoral condyle and patella. He opined that this injury changed her weight bearing, concentrating more of her weight on the medial aspect of her right knee. Because of the eburnated bone on the medial tibial plateau, appellant was experiencing more discomfort in the knee than she had prior to the right knee injury of October 30, 2012. Dr. Mochizuki noted, "It is my conclusion that the work injury which caused the meniscal tear

³ Appellant requested authorization for this surgery. The record does not contain a final decision of OWCP regarding whether the surgery should be authorized and this matter is not currently before the Board. See 20 C.F.R. §§ 501.2(c) and 501.3(a).

⁴ It does not appear from the record that appellant incurred wage loss during this period.

⁵ In a December 2, 2014 report, Dr. Mochizuki continued to keep appellant on total disability.

⁶ Appellant later submitted Forms CA-7 claiming work-related disability through mid-2015.

⁷ OWCP noted, "If Dr. Mochizuki believes an aggravation is indicated, then it should be explained if the aggravation is temporary or permanent."

and chondromalacia of the medial femoral condyle aggravated the underlying osteoarthritis of [appellant's] right knee. The work injury of October 30, 2012 aggravated the underlying osteoarthritis and has made it necessary for [her] to take time off work due to the knee pain." On January 8, 2015 he found that appellant continued to be totally disabled.

In a January 26, 2015 decision, OWCP denied appellant's claim because she had not submitted medical evidence establishing a recurrence of disability on November 4, 2014 due to her October 30, 2012 employment injury. It found that Dr. Mochizuki had not adequately explained how her medical condition from the October 30, 2012 work injury had changed such that she had work-related disability on or after November 4, 2014. OWCP noted that appellant already had severe osteoarthritis at the time of the October 30, 2012 injury and indicated that a work-related aggravation of that condition had not been established by the medical evidence.

On February 5, 2015 Dr. Mochizuki indicated that appellant could resume light-duty work on February 6, 2015. In April 7, June 9, and August 13, 2015 reports, he reported that she could continue performing light-duty work.

On July 1, 2015 appellant filed a claim for a schedule award (Form CA-7) due to her accepted employment injuries.

Appellant requested a hearing with an OWCP hearing representative. During the hearing held on August 19, 2015 appellant's counsel argued that Dr. Mochizuki's reports should have been sufficient to establish an aggravation of appellant's underlying condition or to require further development of the medical evidence. Appellant testified that she had ongoing catching in her right knee as well as an altered gait.

Appellant submitted a September 25, 2015 report in which Dr. Mochizuki noted swelling and tenderness in her right knee and recommended continuing light-duty work.

By decision dated October 20, 2015, OWCP denied appellant's claim for a schedule award.⁸

In an October 28, 2015 decision, an OWCP hearing representative denied appellant's recurrence of disability claim, noting that she had not submitted sufficient medical evidence establishing disability on or after November 4, 2014 due to her October 30, 2012 work injury. She found that Dr. Mochizuki did not provide the necessary medical rationale to support his opinion that appellant's underlying degenerative right knee condition was aggravated by the October 30, 2012 accepted work injury.

LEGAL PRECEDENT

An individual 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 compensation is claimed is causally related to the accepted

⁸ Appellant did not appeal this decision to the Board and thus is not currently before the Board.

injury.⁹ This burden includes the necessity of furnishing 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 medical rationale.¹⁰ Where no such rationale is present, medical evidence is of diminished probative value.¹¹

ANALYSIS

OWCP accepted that on October 30, 2012 appellant sustained bilateral contusions of her knees and fingers, old bucket handle tear of the medial meniscus of her right knee, and joint pain in her right lower leg due to a fall at work. Dr. Mochizuki, an attending Board-certified orthopedic surgeon, performed right knee surgery on March 29, 2013 including arthroscopic resection of a torn portion of her medial meniscus, tricompartmental synovectomy, and chondroplasty of her medial femoral condyle and patella. The procedures were authorized by OWCP.

Appellant stopped work on November 4, 2014 and filed claims alleging that she sustained a recurrence of disability beginning November 4, 2014 due to the October 30, 2012 work injury. OWCP denied her claim finding that she had not submitted sufficient medical evidence to establish her claim.

The Board finds that the medical evidence was insufficient to establish a recurrence of disability on or after November 4, 2014 due to her October 30, 2012 work injury. Appellant submitted several medical reports in which Dr. Mochizuki found disability beginning November 4, 2014, but these reports did not contain a rationalized medical opinion establishing disability on or after November 4, 2014 due to the October 30, 2012 work injury or other work factors.

In a report dated December 23, 2014, Dr. Mochizuki posited that appellant's right knee injury on October 30, 2012 caused not only a medial meniscus tear but a progression of the underlying chondromalacia of her medial femoral condyle and patella. He noted, "It is my conclusion that the work injury which caused the meniscal tear and chondromalacia of the medial femoral condyle aggravated the underlying osteoarthritis of [appellant's] right knee. The work injury of October 30, 2012 aggravated the underlying osteoarthritis and has made it necessary for [appellant] to take time off work due to the knee pain."

Dr. Mochizuki did not provide adequate medical rationale in support of his opinion on causal relationship. The Board has held that a medical report is of limited probative value on the

⁹ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988); *Dominic M. DeScala*, 37 ECAB 369, 372 (1986). Under 20 C.F.R. § 10.5(x), a recurrence of disability is defined, in part, as "an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."

¹⁰ *L.F.*, Docket No. 15-1069 (issued August 12, 2015); *Mary S. Brock*, 40 ECAB 461, 471-72 (1989).

¹¹ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

issue of causal relationship if it contains a conclusion unsupported by medical rationale.¹² Dr. Mochizuki only briefly described the October 30, 2012 work injury. He did not explain the medical process through which it could have been competent to cause aggravation of the underlying severe degenerative condition or to establish that appellant had work-related disability on or after November 4, 2014 due to the accepted conditions. Dr. Mochizuki did not review medical records regarding her right knee condition prior to October 30, 2012 to determine what aspect of her underlying condition changed due to the October 30, 2012 injury. He opined that this injury changed appellant's weight bearing, concentrating more of her weight on the medial aspect of her right knee, but he did not provide any explanation for this opinion. Dr. Mochizuki indicated that, because of the eburnated bone on the medial tibial plateau, she was experiencing more discomfort in the knee than she had prior to the right knee injury of October 30, 2012. The Board has held that the fact that a condition manifests itself or worsens during a period of employment does not raise an inference of causal relationship between a claimed condition and employment factors.¹³ Dr. Mochizuki did not adequately consider whether appellant's continuing complaints were due to the natural progression of her underlying nonwork-related right knee condition or to the nonwork-related left foot condition (foreign body with infection) were the cause of disability on November 4, 2014. He produced other reports recommending total disability after November 4, 2014, but none of these reports contains an opinion on the need for such work stoppage.¹⁴

For these reasons, appellant did not establish a recurrence of disability on or after November 4, 2014 due to her October 30, 2012 work injury.

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.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a recurrence of disability on or after November 4, 2014 due to her October 30, 2012 work injury.

¹² *C.M.*, Docket No. 14-88 (issued April 18, 2014).

¹³ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

¹⁴ There is no medical evidence showing that appellant had disability on or after November 4, 2014 due to the accepted contusion, medial meniscus tear, or joint pain conditions.

ORDER

IT IS HEREBY ORDERED THAT the October 28, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 13, 2016
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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