

On appeal appellant contends that reports from her attending physician establish her partial disability and medical restrictions regarding the use of her right upper extremity during the claimed period of disability.

FACTUAL HISTORY

On September 26, 2015 appellant, then a 59-year-old carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she was bitten on her index finger by a dog while picking up mail she had dropped. She stopped work on the date of injury.

In return to work instructions dated September 26, 2015, Jonathan Choi, a physician assistant, advised that appellant was treated on that date. Mr. Choi advised that she should be able to return to work in three to five days.

In an October 7, 2015 continuation of pay nurse report, Diane Baggett, a nurse, indicated that appellant had returned to full-duty work on September 30, 2015.

In an October 9, 2015 doctor's first report of occupational injury or illness, Dr. Kadassah R. Kreiman, an attending Board-certified physiatrist, provided a history that appellant was bitten by a dog on her right index finger while delivering mail to a house. She provided examination findings and a primary diagnosis of open dog bite of the right finger.

On December 5, 2015 appellant filed a claim for compensation (Form CA-7) for intermittent leave taken during the period November 12 to 23, 2015. In a time analysis form (Form CA-7a) dated December 5, 2015, she claimed LWOP for 33.52 intermittent hours of disability during the stated period. Appellant indicated that she missed time from work because she was restricted to limited duty by her physician and the employing establishment only provided four hours of limited duty on the dates in question.

In an industrial work status report dated November 2, 2015, Dr. Kreiman again diagnosed open dog bite of the right finger. She placed appellant on modified activity at work and home from November 12 to 23, 2015. Dr. Kreiman noted that if modified activity was not accommodated by the employing establishment then appellant was considered temporarily totally disabled from her regular work for the designated time period. She concluded that appellant may work up to four hours a day with restrictions that included no lifting, pulling, or pushing more than two pounds with her right hand.

On December 21, 2015 OWCP accepted appellant's claim for resolved open bite of the right index finger. It advised, however, that the evidence submitted was insufficient to establish that her claimed wage loss was due to the accepted condition as she had been released to full-duty work as of October 1, 2015. OWCP informed appellant about the type of medical evidence needed to establish her claim.

In a September 26, 2015 right hand x-ray report, Dr. Linda M. Gordon, a Board-certified radiologist, provided an impression of mild degenerative narrowing and spurring at the first interphalangeal joint. She noted that the x-ray was otherwise unremarkable.

A November 9, 2015 occupational health supply form with an unknown signature provided a diagnosis of right finger pain and ordered putty for appellant's home exercise program.

In a March 14, 2016 decision, OWCP denied appellant's claim for compensation for the period November 2 to 23, 2015. It found that the medical evidence of record failed to establish that she was disabled during the claimed period as a result of her accepted employment injury. OWCP found that the medical evidence of record indicated a newly diagnosed right wrist sprain and lumbar sprains, neither of which are conditions accepted as causally related to the accepted dog bite.

LEGAL PRECEDENT

With respect to a claimed period of disability, an employee has the burden of proof to establish that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.⁴

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative, and substantial medical evidence.⁵ The medical evidence required to establish a period of employment-related disability is rationalized medical evidence.⁶ Rationalized medical evidence is medical evidence based on a complete factual and medical background of the claimant, of reasonable medical certainty, with an opinion supported by medical rationale.⁷ The Board, however, 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.⁸ To do so, would essentially allow an employee to self-certify their disability and entitlement to compensation.⁹

ANALYSIS

OWCP accepted that appellant sustained a resolved open bite of the right index finger while in the performance of duty on September 26, 2015. Appellant claimed compensation for

³ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ 20 C.F.R. § 10.5(f); *see, e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

⁵ *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁶ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁷ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Sandra D. Pruitt*, 57 ECAB 126 (2005).

⁹ *See William A. Archer*, 55 ECAB 674 (2004); *supra* note 5.

intermittent disability from November 12 to 23, 2015. She has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between her claimed disability for that period and the accepted conditions.¹⁰ The Board finds that appellant failed to submit sufficient medical evidence to establish employment-related disability for the period claimed due to her accepted injury.¹¹

Dr. Kreiman's November 2, 2015 report diagnosed open dog bite of the right finger and placed her on modified activity at work and home, four hours a day with restrictions from November 2 to 23, 2015. She restricted her from lifting, pulling, or pushing more than two pounds with her right hand. However, Dr. Kreiman did not explain why appellant's disability and medical restrictions during the claimed period were causally related to the accepted September 26, 2015 dog bite, nor did she provide any supportive explanation as to whether the restrictions were related to the accepted open-wound dog bite, or the other diagnosed conditions of right wrist sprain and lumbar strain which have not been accepted by OWCP. The Board has held that a medical opinion not supported by medical rationale is of little probative value.¹²

Dr. Gordon's September 26, 2015 diagnostic test results did not provide a medical opinion addressing whether appellant's mild degenerative narrowing and spurring at the first interphalangeal joint of the right hand was causally related to the accepted September 26, 2015 employment injury. This hand condition was not accepted as work related by OWCP. For conditions not accepted by OWCP as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation.¹³ Further, Dr. Gordon did not provide an opinion addressing the relevant issue of whether appellant had any disability during the claimed period due to the accepted work injury. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁴

The November 9, 2015 occupational health supply form was not adequately signed and, thus, has no probative medical value as it cannot be established that the author is a physician.¹⁵

On appeal appellant contends that medical evidence from Dr. Kreiman is sufficient to establish her partial disability and medical restrictions regarding the use of her right upper extremity from November 2 to 23, 2015. For the reasons previously stated, the Board finds that the November 2, 2015 report of Dr. Kreiman is of diminished probative value.

¹⁰ See *Amelia S. Jefferson*, 57 ECAB 183 (2005).

¹¹ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

¹² *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹³ *G.A.*, Docket No. 09-2153 (issued June 10, 2010); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Alice J. Tysinger*, 51 ECAB 638 (2000).

¹⁴ *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, *supra* note 13; *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁵ See *D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

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 wage-loss compensation for 33.52 hours of leave without pay from November 2 to 23, 2015 causally related to her accepted September 26, 2015 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the March 14, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 27, 2016
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board