

ISSUE

The issue is whether OWCP properly terminated appellant's entitlement to wage-loss and schedule award compensation, effective October 2, 2015, pursuant to 5 U.S.C. § 8106(c)(2), for refusing an offer of suitable work.

FACTUAL HISTORY

On February 4, 2011 appellant, then a 51-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 4, 2011 she sustained a right knee injury when she tripped on a box in a hallway at work and fell to the ground, landing on her knees. She stopped work on February 4, 2011.

On April 1, 2011 OWCP accepted that appellant sustained contusions of both knees and lower legs. Appellant received disability compensation on the daily rolls beginning March 22, 2011.

On March 7, 2012 Dr. Phillip Langer, an attending Board-certified orthopedic surgeon, performed an OWCP approved right knee surgery including anterior cruciate ligament reconstruction, partial medial and lateral meniscectomy, chondroplasty with patella debridement, and arthroscopic removal of loose bodies.³

On September 9, 2012 Dr. Langer released appellant to regular-duty work without restrictions and, on September 10, 2012, she returned to such work for the employing establishment. Appellant was seen on December 3, 2012 by Dr. Jeff Traub, an attending Board-certified orthopedic surgeon. Dr. Traub provided work restrictions, including no standing, stair climbing, mail truck driving, or mail delivery, and recommended that she have a 15- to 20-minute break every 2 hours. On December 7, 2012 appellant returned to a sedentary light-duty job at the employing establishment in accordance with these restrictions.

In early 2013, Dr. Traub advised that appellant had failed conservative treatment and recommended that she undergo right total knee arthroplasty. Appellant stopped work on March 26, 2013 and he performed an OWCP-approved right total knee arthroplasty on that date.⁴

On May 8, 2013 OWCP expanded the accepted conditions to include lateral meniscus tear of the right knee, aggravation of right knee osteoarthritis, right knee sprain, and loose body of the right knee.

In February 2014, OWCP referred appellant for a second opinion examination with Dr. Eric S. Furie, a Board-certified orthopedic surgeon. It requested that he evaluate the nature of her right knee condition and provide an opinion on her ability to work.

³ Appellant received disability compensation on the periodic rolls beginning April 8, 2012.

⁴ Appellant received total disability compensation on the daily rolls beginning March 26, 2013 and on the periodic rolls beginning May 5, 2013.

In an April 8, 2014 report, Dr. Furie detailed the medical history of appellant's right knee condition and discussed the physical examination findings regarding her right knee, noting that she had 110 degrees of motion in the knee. He diagnosed right knee osteoarthritis (status postsurgery) and right knee medial collateral ligament sprain, and he determined that she could work eight hours per day with restrictions, including lifting up to 25 pounds on a frequent basis and up to 50 pounds on an occasional basis.

On June 6, 2014 the employing establishment offered appellant a full-time modified position as a sales solution team member. The position involved contacting customers by telephone (intermittently for six to eight hours per day), engaging in light data inputting (intermittently for four hours), answering the telephone (intermittently for six to eight hours), and engaging in back office administrative assistance duties (intermittently for eight hours). The physical requirements of the position included sitting in an office chair with a supportive back and occasionally standing (intermittently for eight hours), simple grasping and pushing/pulling a computer mouse (intermittently for four to eight hours), fine manipulation of a keyboard (intermittently for four to eight hours), and speaking on the telephone (intermittently for six to eight hours).

In a June 13, 2014 report, Dr. Christopher R. Edwards, an attending Board-certified internist, indicated that appellant was at maximum medical improvement (MMI) with respect to her back condition.⁵ He noted that she underwent a functional capacity evaluation (FCE) on June 10, 2014 which showed that she could return to restricted-duty work and he posited that she could in fact return to restricted-duty work at the sedentary-to-moderate level.⁶

On June 16, 2014 Dr. Traub advised that appellant came in for follow-up treatment and reported doing fairly well with respect to her right knee. He discussed her June 10, 2014 FCE, noting that the evaluators assessed her right knee and back conditions and placed her in a sedentary work category.

In a December 12, 2014 report, Dr. Traub indicated that appellant presented for follow-up treatment and reported that she was off work "not because of [appellant's] knee, but because of her back." He noted that she was status post right total knee replacement and indicated that "the condition has resolved." Dr. Traub advised that appellant was at the sedentary work level and noted, with respect to her right knee, she could return to work with restrictions of no lifting more than 10 pounds and no stooping, kneeling, or squatting. He indicated that, "[Appellant] is not currently working because of her back and not because of her knee."

⁵ In his June 13, 2014 report, Dr. Edwards mentioned that appellant underwent back surgery in 2013. The record contains a statement of accepted facts (SOAF) which notes that, under claims other than the present claim, OWCP accepted a left shoulder strain in 2002 and a herniated disc at L3-4 in 2013. The SOAF also indicates that appellant had undergone OWCP-approved spinal fusion surgery at L3-4 and L4-5 on November 7, 2013 and the present case record contains a report of this surgery which was performed by Dr. Edwards.

⁶ The record contains a copy of the FCE appellant underwent on June 10, 2014.

On January 7, 2015 Dr. Traub determined that the duties of the position of sales solution team member offered on June 6, 2014 were within appellant's medical restrictions and, therefore, she was capable of working in the position.

In January 2015, appellant began participating in a vocational rehabilitation program designed to return her to work. Her vocational rehabilitation counselor indicated that the medical evidence of record showed that appellant was capable of engaging in sedentary work activity on a full-time basis.

In a February 23, 2015 duty status report (Form CA-17), an individual with an illegible signature indicated that appellant could work for eight hours per day with restrictions of lifting no more than 10 pounds, sitting for no more than two hours, standing for no more than 10 minutes at a time, and driving for no more than 30 minutes. Appellant could not climb, kneel, bend, stoop, or twist.

On April 17, 2015 the employing establishment again offered appellant a full-time modified position as a sales solution team member. This modified position involved the same duties as the position offered on June 6, 2014, except that she would not be required to engage in back office administrative assistance duties. The physical requirements were the same as the previously offered position, except that the new position restricted appellant from lifting more than two pounds (a duty which would be performed intermittently for four to eight hours). The position was characterized as sedentary in nature and allowed appellant to alternate between sitting and standing as necessary.⁷

On April 17, 2015 appellant refused the position of sales solution team member offered by the employing establishment.

In an April 21, 2015 report, Dr. Feroze Yusufji, an attending Board-certified orthopedic surgeon, noted that appellant presented and complained of lower back pain and numbness and weakness in her right lower extremity. He indicated that, upon physical examination, she exhibited tenderness to palpation and limited range of motion of the lumbar spine. Dr. Yusufji diagnosed several back conditions, including disc displacement, lumbar radiculitis, and lumbosacral spondylosis.⁸ He indicated that appellant was restricted from driving for more than 30 minutes and advised that she could sit for up to 2 hours at a time with 10- to 15-minute breaks between sitting periods, during which she could stand and move about. Dr. Yusufji recommended that she undergo electromyogram (EMG) and nerve conduction velocity (NCV) testing for her right lower extremity.

⁷ The offered position was located in Stone Mountain, GA, and the record contains the result of an internet search showing that the work location was approximately 36 miles from appellant's residence.

⁸ Dr. Yusufji indicated that a computerized tomography (CT) scan with myelogram from an unspecified date showed some residual involvement at L4-5 on the right and he noted "I feel [that appellant] has involvement at L5-S1 level on the right now with most likely an extruded disc." The record contains a report of July 23, 2013 CT scan/myelogram testing which shows large anterior extradural defects at L2-3 through L5-S1 with an acquired spinal stenosis at L4-5 secondary to additional facet joint hypertrophy and ligamentous hypertrophy bilaterally.

In a return to work notice dated April 21, 2015, Dr. Yusufji noted that appellant could work with restrictions including a maximum of 30 minutes driving at one time and 2 hours of sitting at a time until her next appointment on May 7, 2015.

In an April 22, 2015 letter, received by OWCP on May 7, 2015, appellant indicated that she was refusing the position of sales solution team member offered on April 17, 2015 because the position violated the driving restrictions of Dr. Yusufji. She noted that her residence was approximately a 50-minute drive from the site of the offered position.

In an April 30, 2015 letter, OWCP advised appellant of its determination that the position of sales solution team member offered by the employing establishment was suitable. It discussed the medical evidence of record noting that it showed that she could work as a sales solution team member. OWCP addressed appellant's concerns about driving and sitting and indicated that she could take a break while driving to and from work, that she could take public transportation, and that the offered job allowed her to alternate between sitting and standing as necessary. It informed appellant that her entitlement to wage-loss and schedule award compensation would be terminated if she did not accept the position or provide good cause for not doing so within 30 days of the date of the letter.

In late-April 2015, OWCP referred appellant for a second opinion examination to Dr. Alexander N. Doman, a Board-certified orthopedic surgeon, to further evaluate her capacity to work. It provided him with a current SOAF.⁹

Appellant submitted a May 7, 2015 narrative report of Dr. Yusufji which contained findings similar to those contained in his April 21, 2015 narrative report and a July 22, 2013 EMG and NCV testing report showing findings suggestive of an abnormality in the right S1 nerve root distribution, but no dysfunction involving the deep peroneal/tibial nerves and no polyneuropathy/myopathy. In a May 16, 2015 letter, an employing establishment official indicated that she had been accepted for Office of Personnel Management (OPM) disability retirement effective May 8, 2015. Other documents show that appellant elected to receive OPM benefits beginning August 31, 2015.

By letter dated May 14, 2015, appellant indicated that she was refusing the position of sales solution team member offered on April 17, 2015 due to an attached May 14, 2015 note of Dr. Robert Friedman, an attending Board-certified neurosurgeon. In the attached note, Dr. Friedman indicated that she was seen on May 14, 2015 and should not "work at all" until her follow-up appointment on June 30, 2015.

⁹ The SOAF provided to Dr. Doman listed all of appellant's accepted conditions and approved surgeries. In other referral documents provided to him, OWCP advised that the work location of the position of sales solution team member offered to her was approximately 36 miles from her residence. It further advised that the position of sales solution team member would allow appellant to alternate between sitting and standing positions throughout the day.

In a report dated July 10, 2015, Dr. Doman discussed appellant's factual and medical history.¹⁰ He detailed the prior findings on physical examination/diagnostic and the prior surgical procedures. Dr. Doman indicated that x-rays of the right knee showed well-fixed total knee components without evidence of loosening and that x-rays of the lumbar spine showed solid lumbar fusion with pedicle screw fixation at L3 through L5. He detailed the findings of the physical examination he conducted on July 8, 2015, noting that appellant had good range of motion of the right knee (from 0 to 110 degrees), and did not have right knee instability or signs of muscular atrophy. With respect to the physical examination of her back and lower extremities, Dr. Doman reported that the lumbar spine showed a well-healed surgical scar, straight leg raise testing was negative, deep tendon reflexes were normal, and there were no signs of muscular atrophy. He indicated that appellant could not perform her regular work as a city carrier due to ongoing back pain following her lumbar spine surgery. However, Dr. Doman found that she could perform full-time work in a sedentary-type job per the work restrictions contained in an attached work capacity evaluation form (Form OWCP-5c). He noted that he had reviewed the work requirements of the position of sales solution team member offered by the employing establishment and indicated that appellant could perform the position. Dr. Doman noted that she would not have difficulty in driving the 36 miles to and from work, even if she had to drive more than one hour at a time. In an attached Form OWCP-5c dated July 8, 2015, he indicated that appellant could walk or stand for two hours at a time and that she could engage in lifting for up to three hours.

The vocational rehabilitation counselor assigned to appellant closed her vocational rehabilitation file effective September 9, 2015. The counselor had determined that the position of sales solution team member was medically and vocationally suitable for appellant.

In a September 16, 2015 letter, OWCP advised appellant that her reasons for not accepting the position of sales solution team member offered by the employing establishment were unjustified.¹¹ It advised her that her entitlement to wage-loss and schedule award compensation would be terminated if she did not accept the position within 15 days of the date of the letter. Appellant did not accept the offered position within the allotted period.

By decision dated October 2, 2015, OWCP terminated appellant's entitlement to wage-loss and schedule award compensation effective October 2, 2015, because she refused an offer of suitable work. It found that the evidence of record showed that she was medically and vocationally capable of performing the position of sales solution team member and that she had not shown good cause for refusing the position. OWCP found that the weight of the medical opinion evidence regarding appellant's ability to work as a sales solution team member rested with the well-rationalized opinion of Dr. Doman, OWCP's referral physician, and determined that she did not

¹⁰ Dr. Doman indicated that he had reviewed surveillance video from October and November 2014 which was obtained by the Office of Inspector General (OIG) of the employing establishment. He noted that the surveillance video showed appellant's ability to drive and walk without difficulty. The record contains OIG reports detailing the contents of the surveillance video from October and November 2014. Appellant was observed engaging in such activities as driving, walking, and briefly participating in bowling.

¹¹ On September 14, 2015 an employing establishment official advised OWCP that the position of sales solution team member offered to appellant on April 17, 2015 remained available.

submit rationalized medical evidence showing that she could not perform the position. It advised that her retirement was not a valid reason for refusing the position.

Appellant filed a schedule award claim and, on November 24, 2015, OWCP granted her a schedule award for 21 percent permanent impairment of her right lower extremity. The award was scheduled to run for 60.48 weeks. However, OWCP only paid appellant from August 31 through October 1, 2015, the day before the termination of her entitlement to wage-loss and schedule award compensation, effective October 2, 2015.

Appellant, through counsel, requested a telephone hearing with a representative of OWCP's Branch of Hearings and Review. She submitted a December 16, 2015 report from Dr. Traub who indicated that he obtained x-rays of the right knee which showed no loosening and good alignment after right total knee arthroplasty.

During the hearing held on June 14, 2016, counsel argued that the position of sales solution team member was not suitable because it required sitting and driving beyond appellant's medical restrictions.

Appellant submitted a May 7, 2015 note from Dr. Yusufji who indicated that she could work with a restriction of not driving for any period longer than 20 minutes until further notice.

By decision dated August 25, 2016, OWCP's hearing representative affirmed OWCP's October 2, 2015 decision terminating appellant's entitlement to wage-loss and schedule award compensation effective October 2, 2015 for refusing suitable work. She found that appellant was medically and vocationally capable of performing the position of sales solution team member offered by the employing establishment. The hearing representative determined that the weight of the medical opinion evidence regarding appellant's ability to work as a sales solution team member continued to rest with the opinion of Dr. Doman. She noted that the reports of appellant's attending physicians were not sufficiently well rationalized to show that she could not work as a sales solution team member.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's compensation benefits.¹² Section 8106(c)(2) of FECA provides that a partially disabled employee who refuses or neglects to work after suitable work is offered to, procured by, or secured for the employee is not entitled to compensation.¹³ To justify termination of compensation, OWCP must show that the work offered was suitable, that the employee was informed of the consequences of refusal to accept such employment, and that she was allowed a reasonable period to accept or reject the position or submit evidence to provide reasons why the position is not suitable.¹⁴ Section 8106(c) will be narrowly construed as it serves

¹² *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005).

¹³ 5 U.S.C. § 8106(c)(2); *see also Geraldine Foster*, 54 ECAB 435 (2003).

¹⁴ *See Ronald M. Jones*, 52 ECAB 190 (2000).

as a penalty provision, which may bar an employee's entitlement to compensation based on a refusal to accept a suitable offer of employment.¹⁵

Section 10.517(a) of FECA's implementing regulations provide that an employee who refuses or neglects to work after suitable work has been offered or secured, has the burden of proof to showing that such refusal or failure to work was reasonable or justified.¹⁶ Pursuant to section 10.516, the employee shall be provided with the opportunity to make such a showing before a determination is made with respect to termination of entitlement to compensation.¹⁷

Before compensation can be terminated, however, OWCP has the burden of proof to demonstrate that the employee can work, setting forth the specific restrictions, if any, on the employee's ability to work, and establishing that a position has been offered within the employee's work restrictions and setting forth the specific job requirements of the position.¹⁸ The determination of whether an employee is physically capable of performing a modified assignment is a medical question that must be resolved by medical evidence.¹⁹ OWCP procedures provide that acceptable reasons for refusing an offered position include withdrawal of the offer or medical evidence of inability to do the work or travel to the job.²⁰

In a suitable work determination, OWCP must consider preexisting and subsequently acquired medical conditions in evaluating an employee's work capacity.²¹

ANALYSIS

The Board finds that OWCP properly terminated appellant's entitlement to wage-loss and schedule award compensation effective October 2, 2015 pursuant to 5 U.S.C. § 8106(c)(2), for refusing an offer of suitable work.

Appellant sustained a fall at work on February 4, 2011 and OWCP accepted that she sustained contusions of both knees and lower legs, lateral meniscus tear of the right knee, aggravation of right knee osteoarthritis, right knee sprain, and loose body of the right knee. OWCP also authorized right knee surgery including a March 26, 2013 right total knee arthroplasty.²² In April 2015, the employing establishment offered appellant a full-time modified position as a sales

¹⁵ *Joan F. Burke*, 54 ECAB 406 (2003); see *Robert Dickerson*, 46 ECAB 1002 (1995).

¹⁶ 20 C.F.R. § 10.517(a).

¹⁷ *Id.* at § 10.516.

¹⁸ See *Linda Hilton*, 52 ECAB 476 (2001).

¹⁹ *Gayle Harris*, 52 ECAB 319 (2001).

²⁰ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.5a (June 2013); *E.B.*, Docket No. 13-0319 (issued May 14, 2013).

²¹ See *G.R.*, Docket No. 16-0455 (issued December 13, 2016); *Richard P. Cortes*, 56 ECAB 200 (2004).

²² Under claims other than the present claim, OWCP accepted a left shoulder strain in 2002 and a herniated disc at L3-4 in 2013. Appellant underwent OWCP-approved spinal fusion surgery at L3-4 and L4-5 on November 7, 2013.

solution team member. Appellant refused the position and OWCP terminated her entitlement to wage-loss and schedule award compensation effective October 2, 2015.

The Board finds that the evidence of record establishes that appellant was capable of performing the position of sales solution team member offered by the employing establishment and determined to be suitable by OWCP in April 2015. The position involved contacting customers by telephone, engaging in light data inputting, and generally answering the telephone. The physical requirements of the position included sitting in an office chair with a supportive back and occasionally standing (intermittently for eight hours), simple grasping and pushing/pulling a computer mouse (intermittently for four to eight hours), fine manipulation of a keyboard and lifting up to two pounds (intermittently for four to eight hours), and speaking on the telephone (intermittently for six to eight hours). The position allowed alternating between sitting and standing as necessary. The evidence of record does not reveal that the position of sales solution team member was temporary in nature.²³ OWCP properly relied on the opinion of appellant's vocational rehabilitation counselor in determining that appellant was vocationally capable of performing the position of sales solution team member.²⁴

The Board finds that, with respect to appellant's physical ability to work, OWCP properly relied on the opinion Dr. Doman, OWCP's referral physician, when it made its determination that the modified position of sales solution team member offered by the employing establishment was suitable. The weight of the medical evidence regarding her ability to work is represented by the thorough, well-rationalized opinion of Dr. Doman. Dr. Doman's July 8, 2015 report shows that appellant is capable of working in the position of sales solution team member.

In his report dated July 10, 2015, Dr. Doman detailed the findings of the physical examination he conducted on July 8, 2015, noting that appellant had good range of motion of the right knee and did not have right knee instability or signs of muscular atrophy. With respect to the physical examination of appellant's back and lower extremities, he reported that the lumbar spine showed a well-healed surgical scar, straight leg raise testing was negative, deep tendon reflexes were normal, and there were no signs of muscular atrophy. Dr. Doman indicated that appellant could not perform her regular work as a city carrier due to ongoing back pain following her lumbar spine surgery. He further indicated, however, that she could perform full-time work in a sedentary-type job per the work restrictions contained in an attached work capacity evaluation form. Dr. Doman noted that he had reviewed the work requirements of the position of sales solution team member offered by the employing establishment and indicated that appellant could perform the position. He also indicated that he had reviewed the surveillance materials from the OIG which evinced her driving and walking without difficulty. Dr. Doman noted that appellant would not have difficulty in driving the 36 miles to and from work, even if she had to drive more than one hour at a time. In an attached work capacity evaluation form dated July 8, 2015, he indicated that

²³ If the employing establishment offers a claimant a temporary light-duty assignment and the claimant held a permanent job at the time of injury, the penalty language of section 8106(c) cannot be applied. *See supra* note 20 at Chapter 2.814.4c(5), 9 (June 2013).

²⁴ *See id.*, at Chapter 2.814.4 (June 2013).

she could walk or stand for two hours at a time and that she could engage in lifting for up to three hours.

The Board has carefully reviewed the opinion of Dr. Doman and notes that it has reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue of the present case. Dr. Doman provided a thorough factual and medical history and accurately summarized the relevant medical evidence.²⁵ He provided medical rationale for his opinion by explaining that, although appellant's medical condition (particularly her back condition) prevented her from performing her regular work as a city carrier, the objective findings of record showed that she could perform a sedentary position such as the position of sales solution team member offered by the employing establishment.²⁶ The Board notes that Dr. Doman fully considered the effects of her preexisting and subsequently-acquired medical conditions in evaluating her work capacity.²⁷

The Board finds that, therefore, OWCP has established that the position of sales solution team member offered by the employing establishment is suitable. As noted above, once OWCP has established that a particular position is suitable, an employee who refuses or neglects to work after suitable work has been offered has the burden of proof to show that such refusal to work was justified.²⁸

The Board has carefully reviewed the evidence and argument submitted by appellant in support of her refusal of the position of sales solution team member and notes that it is insufficient to justify her refusal of the position.

In an April 21, 2015 narrative report, Dr. Yusufji indicated that appellant was restricted from driving for more than 30 minutes and advised that she could sit for up to 2 hours at a time with 10- to 15-minute breaks between sitting periods, during which she could stand and move about. In a return to work notice dated April 21, 2015, he indicated that she was restricted to a maximum of 30 minutes driving at one time and 2 hours of sitting at a time until her next appointment on May 7, 2015. In a May 7, 2015 note, Dr. Yusufji indicated that appellant could work with a restriction of not driving for any period longer than 20 minutes until further notice.

The Board notes that the submission of this evidence does not show that appellant was unable to work as a sales solution team member because Dr. Yusufji's various opinions about her ability to drive are of limited probative value due to their lack of medical rationale. Dr. Yusufji did not provide any explanation of why he recommended such restrictions on the amount of time she could spend driving. He did not explain how specific findings on physical examination or

²⁵ See *Melvina Jackson*, 38 ECAB 443, 449-50 (1987); *Naomi Lilly*, 10 ECAB 560, 573 (1957).

²⁶ The Board notes that, in addition to the fact that Dr. Doman expressly indicated that appellant could work as a sales solution team member, the specific work restrictions recommended by him would allow her to work in that position.

²⁷ See *supra* note 21. As noted, OWCP accepted that appellant sustained a left shoulder strain in 2002. The Board notes that there is no indication in the record that she had problems with her left shoulder around the time the position of sales solution team member was offered in April 2015 or at any point thereafter.

²⁸ See *supra* note 16.

diagnostic testing supported his opinion. The Board has held that a medical report is of limited probative value on a given medical issue if it contains a medical opinion which is unsupported by medical rationale.²⁹ In addition, the Board notes that, with respect to Dr. Yusufji's opinion that appellant could not sit for more than two hours at a time, it should be noted that the position of sales solution team member allowed her to alternate between sitting and standing as necessary.³⁰

In a May 14, 2015 note, Dr. Friedman noted that appellant should not "work at all" until her follow-up appointment on June 30, 2015. However, this note is of limited probative value on the relevant issue of the present case because he did not provide any medical rationale for his conclusion that she could not perform any work. As noted above, the Board has held that an opinion lacking adequate medical rationale is of limited probative value.³¹

The Board finds that OWCP complied with its procedural requirements prior to terminating appellant's compensation, including providing her with an opportunity to accept the position of sales solution team member offered by the employing establishment after informing her that her reasons for initially refusing the position were not valid.³²

For these reasons, OWCP properly terminated appellant's entitlement to wage-loss and schedule award compensation, effective October 2, 2015, because she refused an offer of suitable work.

CONCLUSION

The Board finds that OWCP properly terminated appellant's entitlement to wage-loss and schedule award compensation, effective October 2, 2015, pursuant to 5 U.S.C. § 8106(c)(2), for refusing an offer of suitable work.

²⁹ *C.M.*, Docket No. 14-0088 (issued April 18, 2014).

³⁰ Moreover, Dr. Yusufji did not provide any medical rationale in support of his opinion that appellant needed 10- to 15-minute breaks between sitting periods of two hours.

³¹ *See id.* It is noted that appellant retired from the employing establishment in May 2015. However, OWCP procedures and Board case law provide that retirement is not a valid reason for refusing an offer of suitable work. *See supra* note 20 at Chapter 2.814.5c(4) (June 2013); *Stephen R. Lubin*, 43 ECAB 564 (1992).

³² *See generally Maggie L. Moore*, 42 ECAB 484 (1991); *reaff'd on recon.*, 43 ECAB 818 (1992).

ORDER

IT IS HEREBY ORDERED THAT the August 25, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 3, 2018
Washington, DC

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

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

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