

**United States Department of Labor
Employees' Compensation Appeals Board**

S.A., Appellant)	
)	
and)	Docket No. 24-0669
)	Issued: September 12, 2024
U.S. POSTAL SERVICE, POST OFFICE,)	
CHICAGO INTERNATIONAL SERVICE)	
CENTER, Chicago, IL, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 9, 2024 appellant filed a timely appeal from a May 29, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work on April 6 and 28 and May 16, 2022 causally related to her accepted February 20, 2022 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On March 5, 2022 appellant, then a 63-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on February 20, 2022 she injured her knees, right wrist, and right elbow when she fainted and fell while lifting heavy items in the performance of duty. She stopped work on the date of injury and returned to full-duty work without restrictions, effective February 23, 2022.

In duty status reports (Form CA-17) dated March 9 and June 1, 2022, Dr. Kara E. Davis, a Board-certified internal medicine specialist, noted that appellant had suffered a syncopial episode and released appellant to return to work with restrictions of no lifting greater than 10 pounds, effective February 23, 2022. She diagnosed right wrist sprain and right knee contusion.

On April 22, 2022 appellant filed a claim for compensation (Form CA-7) for disability from work on April 6, 2022. She filed additional CA-7 forms on May 15 and 21, 2022 for disability from work on April 28 and May 16, 2022, respectively.

In a narrative report dated June 2, 2022, Dr. Davis noted the history of the February 20, 2022 employment incident and indicated that she had evaluated appellant on February 22 and 25, March 17, and May 18, 2022. She diagnosed right wrist sprain and right knee contusion. Dr. Davis opined that appellant fainted and fell at work due to prolonged standing, over exertion, and dehydration, which caused injuries to her right knee and wrist.

On June 8, 2022 OWCP accepted the claim for right wrist sprain and right knee contusion.

OWCP thereafter received medical reports by Dr. Davis dated February 25, March 17, and May 18, 2022. Dr. Davis noted physical examination findings, diagnosed right wrist sprain and right knee contusion, and recommended physical therapy and an orthopedic evaluation.

In a development letter dated July 25, 2022, OWCP informed appellant of the deficiencies of her claims for compensation. It advised her of the type of factual and medical evidence needed to establish her claim and afforded her 30 days to submit the necessary evidence.

In a time analysis form (Form CA-7a) dated July 27, 2022, the employing establishment indicated that appellant was not scheduled to work on April 6, 2022.

On August 6, 2023 OWCP received statements by appellant dated March 16 and May 23, 2022, which described the February 20, 2022 employment incident and her subsequent treatment.

Appellant also submitted additional statements and journal entries dated August 3 and 6, 2022, which noted that on April 6 and 28, 2022 she was not able to work due to knee pain and on May 16, 2022 she was not able to work due to right knee and right wrist pain and stiffness. She related that she was not provided light-duty work. Appellant also noted that standing, lifting, and walking exacerbated her symptoms. She claimed that she called off from work on April 6 and 28 and May 16, 2022 in order to apply topical analgesics, elevate her right leg, and use a wrist support.

On September 1 and 21, 2022 OWCP requested that the employing establishment advise whether work was available to appellant within her restrictions on April 6 and 28, and May 16, 2022.

By decision dated September 22, 2022, OWCP denied appellant's claims for compensation finding that the medical evidence of record was insufficient to establish disability from work on April 6 and 28, and May 16, 2022 due to the accepted February 20, 2022 employment injury.

On October 9, 2022 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated January 30, 2023, OWCP's hearing representative vacated the September 22, 2022 decision and remanded the case for further development of the record. On remand, the hearing representative directed OWCP to request that the employing establishment provide additional information regarding appellant's claims for wage-loss compensation.

In a February 2, 2023 development letter, OWCP submitted a series of questions to the employing establishment regarding appellant's claims for wage-loss compensation on April 6 and 28, and May 16, 2022.

On February 7, 2023 OWCP received a partially legible work schedule for appellant which reflected "NS" (not scheduled) for April 6, 2022.

In a February 10, 2023 response to the development letter, the employing establishment indicated that appellant claimed compensation for April 6, 2022 but was not scheduled to work that day; that she had returned to full unrestricted work, effective February 23, 2022; and that she was not scheduled to work on April 28 or May 16, 2022.

By *de novo* decision dated July 6, 2023, OWCP denied appellant's claims for compensation finding that the medical evidence of record was insufficient to establish disability from work on April 6 and 28, and May 16, 2022 due to the accepted employment conditions.

OWCP continued to receive evidence, including an August 4, 2023 narrative report by Dr. Davis, who indicated that appellant was unable to work on April 6 and 28, and May 16, 2022. She opined that "these absences were directly related to and caused by the injury sustained at the workplace on February 20, 2022."

On March 11, 2024 appellant requested reconsideration of OWCP's July 6, 2023 decision. In support of her request, she submitted a statement which indicated that she was not assigned light duties when she returned to work on February 23, 2022, and that she was "forced" to resign her position as a mail processing clerk. Appellant also provided a description of her duties, a representative photograph of her work area, and portions of medical articles describing flexor carpi ulnaris (FCU) tendinitis. She reiterated that she "missed work" on April 6 and 28, and May 16, 2022 due to right wrist and knee pain and claimed that "after giving 2-weeks' notice of my intent to resign my position for being denied 'light-duty' in an effort to allow my body to heal, I was terminated from the job on May 22, 2022 by management for a 'lack of work.'"

In an August 17, 2022 medical report, Dr. Megan Anne Conti Mica, a Board-certified orthopedic hand surgeon, noted that appellant was left-hand dominant and related complaints of worsening right wrist pain, which she attributed to a fall at work in February 2022. She performed a physical examination and diagnosed FCU tendinitis. Dr. Conti Mica provided a right wrist splint and recommended activity modification and topical medication.

In a July 17, 2023 medical report, Dr. Davis noted appellant's treatment for hypertension and recommended compression stockings for chronic venous stasis.

On March 18, 2024 OWCP requested that the employing establishment clarify appellant's work schedule on April 6 and 28, and May 16, 2022 and respond to appellant's claim that she had a rotating schedule and was scheduled to work on those dates, but was unable to do so because of her injuries.

In a letter dated March 25, 2024, L.H., an employing establishment occupational health claims processing specialist, indicated that appellant was not scheduled to work on April 6 or 28 or May 16, 2022; that her schedule varied; that she was not a regular employee; and that she did not have a set schedule.

By decision dated May 29, 2024, OWCP denied modification of the July 6, 2023 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² Under FECA, the term "disability" means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.³ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁴ An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.⁵ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.⁶

² *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ 20 C.F.R. § 10.5(f).

⁴ *See H.B.*, Docket No. 20-0587 (issued June 28, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

⁵ *See H.B., id.*; *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

⁶ *See D.R.*, Docket No. 18-0323 (issued October 2, 2018).

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the claimed disability and the accepted employment injury.⁷

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.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work on April 6 and 28, and May 16, 2022, causally related to her accepted February 20, 2022 employment injury.

In support of her claim for compensation, appellant submitted an August 4, 2023 narrative report by Dr. Davis, who indicated that appellant was unable to work on April 6 and 28 and May 16, 2022. She opined that “these absences were directly related to and caused by the injury sustained at the workplace on February 20, 2022.” Dr. Davis did not, however, provide sufficient rationale explaining the nature of the relationship between the claimed disability and the accepted employment injuries.⁹ As such, these reports are insufficient to establish appellant’s claim.

Appellant also submitted reports and CA-17 forms by Dr. Davis dated February 22 and 25, March 9 and 17, May 18, June 1 and 2, 2022 and July 17, and August 4, 2023 and an August 17, 2022 medical report by Dr. Conti Mica. However, none of these reports offered an opinion as to whether appellant was disabled from work due to the accepted February 20, 2022 employment injury on April 6 and 28 and May 16, 2022. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition or disability is of no probative value on the issue of causal relationship.¹⁰ Therefore, these reports are of no probative value and are insufficient to establish her claims for compensation.

As the medical evidence of record is insufficient to establish disability from work on April 6 and 28, and May 16, 2022 due to the accepted February 20, 2022 employment injury, the Board finds that appellant has not met her burden of proof.

⁷ Y.S., Docket No. 19-1572 (issued March 12, 2020).

⁸ J.B., Docket No. 19-0715 (issued September 12, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

⁹ M.F., Docket No. 24-0445 (issued May 23, 2024); T.H., Docket No. 23-0811 (issued February 13, 2024); L.L., Docket No. 21-1194 (issued March 18, 2022); R.C., Docket No. 17-0748 (issued July 10, 2018); *Dean E. Pierce*, 40 ECAB 1249 (1989).

¹⁰ *Supra* note 8; *see also* L.B., Docket No. 18-0533 (issued August 27, 2018); D.K., Docket No. 17-1549 (issued July 6, 2018).

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 has not met her burden of proof to establish disability from work on April 6 and 28, and May 16, 2022 due to the accepted February 20, 2022 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the May 29, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 12, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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