

¹ 5 U.S.C. §§ 8101-8193.

and tear of the triangular fibrocartilage. It authorized right wrist surgery which was performed on June 9, 2008. Appellant returned to limited duty and also received wage-loss compensation for intermittent disability.

Appellant was initially treated by Dr. Stephen Greene, a Board-certified family practitioner, from January 24 to March 10, 2008, for a right wrist injury sustained when she was trying to restrain a disruptive child. Dr. Greene noted mild soft tissue swelling and diagnosed right wrist strain. He recommended a wrist support and returned appellant to restricted work with no use of the right hand. A March 27, 2008 magnetic resonance imaging (MRI) scan of the right wrist showed two cysts in the capitate and tearing of the triangular fibrocartilage. Appellant came under the treatment of Dr. Gary Chen, a Board-certified orthopedist, from May 1 to July 31, 2008 for a right wrist injury sustained at work. Dr. Chen diagnosed triangular fibrocartilage complex tear with dorsal distal radioulnar joint ligament plastic deformity. On June 9, 2008 he performed a right wrist partial synovectomy, distal wrist and distal radius chondroplasty, open repair of the volar radiocarpal ligament and triangular fibrocartilage repair. Dr. Chen diagnosed right wrist triangular fibrocartilage complex tear, volar radiocarpal ligament tear, distal radioulnar joint ligament laxity and distal radius intra-articular chondral lesion. In a work capacity evaluation dated July 31, 2008, he returned appellant to work full time with restrictions.

On August 4, 2008 appellant returned to work in a modified position as a postal officer assigned to the badge unit with sedentary duties subject to Dr. Chen's restrictions. She continued to be treated by him. In a April 7, 2009 duty status report, Dr. Chen returned appellant to work full time with restrictions on the right arm and hand of lifting or gripping limited to 10 pounds, no twisting and carrying limited to 10 pounds. On April 21, 2009 the employing establishment offered her a limited-duty position as a postal police officer with duties conforming to Dr. Chen's reports.²

On December 7, 2010 appellant claimed compensation from November 23 to 30, 2010. In a Form CA-7a, she noted that her doctor required her to rest her right wrist. Appellant submitted a November 23, 2010 report from Dr. Chen, who diagnosed right wrist sprain and strain. Dr. Chen opined that she was temporarily totally disabled effective November 23 to 30, 2010. He advised appellant could work modified duty effective December 1, 2010, with no forceful gripping/grasping with the right hand, no pushing or pulling over five pounds and light use of the right hand with all office supplies and duties.

On December 1, 2010 the employing establishment offered appellant a limited-duty job as a modified postal police officer, full time subject to the restrictions provided by Dr. Chen on November 23, 2010. Appellant accepted the position and returned to work.

In a letter dated December 13, 2010, OWCP requested that appellant submit additional information with regards to her claim for compensation. It requested her to submit medical evidence establishing that she was totally disabled due to the accepted condition for the period claimed.

² On February 4, 2010 OWCP granted appellant a schedule award for 15 percent permanent impairment of the right arm. The period of the award was from November 21, 2009 to October 14, 2010.

Appellant submitted a December 10, 2010 report from Dr. Daniel Capen, a Board-certified orthopedist, who noted her history as related by her and stated that she presented for treatment of her right hand. X-rays showed no evidence of fracture or dislocation. Dr. Capen diagnosed internal derangement of the right wrist. He noted that appellant was currently working in a modified duty capacity with restrictions of light use of the right hand, no continuous twisting, pushing or pulling, limited to simple grasping and fine manipulation. Dr. Capen advised that she could continue to work within restrictions. In a December 10, 2010 work status report, he noted that appellant was restricted to light use of the right hand, continuous twisting limited to one pound, continuous pushing and pulling limited to five pounds, simple grasping and fine manipulation limited to one pound. The restrictions would last for six to eight weeks. In a December 23, 2010 form report, Dr. Capen's first report of occupational injury or illness, he noted a history of injury and repeated his diagnoses. He noted objective findings of the right arm of a scar along the volar wrist, pain and tenderness. Dr. Capen noted that appellant could perform modified work. In a January 27, 2011 work status form, he noted that she was totally disabled from January 27 to March 21, 2011.

In a decision dated February 17, 2011, OWCP denied appellant's claim for compensation for total disability for the period beginning November 24, 2010.

On February 22, 2011 appellant requested reconsideration. She submitted a November 23, 2010 report from Dr. Chen who noted that she presented with pain in the right wrist joint and weakness and was unable to continue her current job status. Dr. Chen noted findings of slight right wrist swelling, tenderness and decreased range of motion. He diagnosed wrist sprain/strain, radiocarpal sprain and late effect sprain/strain. Dr. Chen opined that appellant was disabled until January 28, 2011.

Appellant was treated by Dr. Capen from January 27 to May 5, 2011 for persistent right wrist pain with numbness and tingling. On January 27, 2011 Dr. Capen noted limited range of right wrist motion with tenderness. He advised appellant was working modified duties which aggravated her complaints. Appellant reported working at a desk job and continuously writing for several hours a day, using her right hand and wrist. Dr. Capen noted that because no modified duties were available, she was totally disabled as of January 27, 2011. On March 10 and April 7, 2011 he diagnosed internal derangement of the right wrist and noted taking appellant off work because she had limited range of motion and a questionable internal derangement which was an extension of her injury. Dr. Capen opined that she was totally disabled while undergoing investigative studies and rest to improve her wrist. He recommended shockwave therapy. In a work status form dated March 10, 2010, Dr. Capen noted that appellant was totally disabled from March 10 to April 10, 2011. In a May 5, 2011 work status report, he noted that she was totally disabled from May 5 to June 27, 2011. Also submitted was a February 7, 2011 right wrist MRI scan which revealed subchondral cystic changes in the carpal bones, likely degenerative and no ligament tear. On April 11 and 25, 2011 appellant was treated by Dr. A. Stern, a Board-certified neurologist, who diagnosed right wrist/hand tenosynovitis and tendinopathy. Dr. Stern performed two shockwave therapies.

On May 18, 2011 the employing establishment submitted a statement from appellant's supervisor who noted appellant's work duties consisted of approximately two hours of writing a day. These duties included maintaining radio communication documenting calls, generating

badges which included writing information onto a log, maintaining vehicles which included printing information onto a log book, generating control badges by manually imputing information, creating badges for new hires that included writing information on a log book and providing access control through the use of electronic hardware on gates.

In a decision dated June 9, 2011, OWCP denied modification of the February 17, 2011 decision.³

Appellant continued to be treated by Dr. Capen who on May 5, 2011 diagnosed internal derangement of the right wrist and status post surgery. Dr. Capen opined that she remained totally disabled. In a work status form dated June 24, 2011, he noted that appellant could return to work with restrictions on June 27, 2011 of no forceful lifting, twisting, pulling and minimal computer work with the right hand. On May 2, 2011 appellant was treated by Dr. Stern who diagnosed right wrist/hand tenosynovitis and tendinopathy. Dr. Stern performed a shockwave therapy.

On June 27, 2011 the employing establishment offered appellant a limited duty as a postal police officer subject to the restrictions set forth by Dr. Capen on June 24, 2011 which appellant accepted.

Appellant continued to be treated by Dr. Capen who noted decreased range of motion with tenderness and reiterated his diagnoses. Dr. Capen recommended physical therapy and continued work restrictions. In a January 20, 2012 report, he noted appellant's continued right hand symptoms and indicated that surgery had been recommended. In continuing work status reports, Dr. Capen continued her work restrictions. A September 16, 2011 MRI scan of the right wrist revealed a tear of the radial attachment of the triangular fibrocartilage and no evidence of carpal tunnel syndrome. On March 9, 2012 Dr. Capen noted that appellant continued to have residuals of her work injury and had not reached maximum medical improvement. He noted that his January 20, 2012 restrictions were permanent. In a May 11, 2012 report, Dr. Capen noted appellant's complaints of significant right wrist pain and diagnosed internal derangement of the right wrist and status post wrist surgery. He continued her work restrictions.

Appellant was also treated by Dr. Anthony Ahn, a Board-certified orthopedist, from January 6 to February 13, 2012. Dr. Ahn noted a history of injury and diagnosed triangular fibrocartilage injury of the right wrist. In a February 13, 2012 primary treating physician's progress report, he diagnosed right ulnar impaction and recommended a wrist brace.

In a decision dated June 20, 2012, OWCP denied modification of the February 17, 2011 decision.

³ Appellant appealed to the Board. In an order dated March 12, 2012, the Board set aside the June 9, 2011 decision finding that OWCP failed to consider all the evidence of record at the time of the decision. The Board remanded the case so that OWCP could properly consider all the evidence at the time of the decision and issue an appropriate merit decision on the claim. Docket No. 11-1621 (issued March 12, 2012).

LEGAL PRECEDENT

A claimant has the burden of proving by a preponderance of the evidence that he or she is disabled for work as a result of an accepted employment injury and submit medical evidence for each period of disability claimed.⁴ Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues.⁵ The issue of whether a particular injury causes disability for work must be resolved by competent medical evidence.⁶ To meet this burden, a claimant must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting a causal relationship between the alleged disabling condition and the accepted 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. For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for work as a result of the accepted employment injury.⁸

ANALYSIS

OWCP accepted appellant's claim for sprain of the right wrist, sprain of the right wrist radiocarpal, late effects of the sprain/strain of the right wrist without tendon injury and tear of the triangular fibrocartilage. It authorized right wrist surgery which was performed on June 9, 2008. Appellant stopped work on November 24, 2010 and returned to a limited-duty job on December 1, 2010. She continued to work limited duty until January 27, 2011, when she stopped work completely. On June 24, 2011 appellant returned to a limited-duty position. The Board finds that the medical evidence is insufficient to establish that periods of total disability beginning November 24, 2010 were caused or aggravated by the accepted conditions.⁹

In support of her claim, appellant submitted reports from Dr. Capen beginning December 10, 2010 when he noted findings and diagnoses and stated that appellant could continue working full time within restrictions. Dr. Capen's initial reports did not support that she was totally disabled due to her accepted conditions and he did not otherwise clearly explain how her modified duties exceeded her work restrictions. On January 27, 2011 he noted that appellant's modified duties aggravated her symptoms as she was continuously writing for several

⁴ See *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁵ *Id.*

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

⁷ C.S., Docket No. 08-2218 (issued August 7, 2009).

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

⁹ Although OWCP denied that appellant had total disability beginning November 24, 2010, it continued to pay her wage-loss compensation for intermittent hours of wage loss incidental to medical appointments. These intermittent payments are not at issue in the present appeal.

hours a day with her right hand. Dr. Capen found that she was totally disabled as of January 27, 2011. Similarly, in reports dated March 10 and April 7, 2011, he noted taking appellant off work because she had limited range of motion of the right wrist and a questionable internal derangement which was an extension of her injury. Dr. Capen opined that she was totally disabled while undergoing investigative studies. Likewise on May 5, 2011 he made diagnoses and opined that appellant remained totally disabled. Although these reports and work status forms indicated that appellant was disabled on or after January 27, 2011, Dr. Capen failed to provide a rationalized opinion explaining the reasons why she was disabled for any particular period due to the accepted conditions.¹⁰ As noted, part of appellant's burden of proof includes submitting rationalized medical evidence which supports a causal relationship between the alleged disabling condition and the accepted injury. Other reports from Dr. Capen either indicated that she could work modified duties or did not specifically address how her accepted conditions caused total disability for the period in question.

Appellant also submitted a November 23, 2010 narrative report from Dr. Chen who noted she presented with right wrist pain and weakness and was unable to continue her current job status. Dr. Chen diagnosed wrist sprain/strain, radiocarpal sprain and late effect sprain/strain. He opined that appellant was totally disabled until January 28, 2011. In another November 23, 2010 report, Dr. Chen noted total disability from November 23 to 30, 2010 but stated that she could work modified duty effective December 1, 2010. His reports are insufficient to establish appellant's claim as he did not provide any medical rationale explaining the reasons why she was totally disabled after November 23, 2010 due to her accepted conditions. Dr. Chen also did not explain why he listed a differing period of total disability. Therefore, this report is insufficient to meet appellant's burden of proof.

Reports of other physicians, such as Dr. Ahn and Dr. Stern, did not specifically address the cause of appellant's claimed disability on or after November 24, 2010. Consequently, these reports are insufficient to establish the claimed disability on or after November 24, 2010, is causally related to the accepted conditions.

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 failed to establish that her disability for the period beginning November 24, 2010 is causally related to the accepted employment injury.

¹⁰ It also appears that Dr. Capen's opinion did not have an accurate understanding of appellant's duties. On January 27, 2011 he noted that appellant reported continuously writing for several hours with her right hand. However, on May 18, 2011, appellant's supervisor indicated that appellant's work duties consisted of only about two total hours of writing spaced throughout a workday. See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based upon an incomplete history have little probative value).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 20, 2012 is affirmed.

Issued: February 6, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board