

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JULIO QUIÑONES JR. and DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, Staten Island, NY

*Docket No. 02-986; Submitted on the Record;
Issued February 7, 2003*

DECISION and ORDER

Before COLLEEN D. KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof in terminating appellant's wage-loss compensation effective January 24, 2002, on the basis that he was no longer disabled due to his accepted bilateral carpal tunnel syndrome.

On March 31, 1994 appellant, then a 43-year-old automotive mechanic's helper, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that he developed carpal tunnel syndrome as a result of his federal employment. Appellant identified April 21, 1993 as the date he first became aware of his employment-related condition. He ceased working February 10, 1994 and underwent surgery for his left hand that same day. Appellant underwent a second surgical procedure involving both his right and left hands on March 31, 1994. He returned to his regular duties on June 1, 1994. The Office accepted appellant's claim for bilateral carpal tunnel syndrome. Additionally, the Office accepted that the surgical procedures performed on February 10 and March 31, 1994 were related to appellant's employment injury. Appellant received appropriate wage-loss compensation.

On June 23, 1994 appellant sought treatment for recurring pain. He stopped work on June 30, 1994 and filed a claim for recurrence of disability. The Office accepted that appellant sustained a recurrence of disability on June 30, 1994. He did not return to work with the employing establishment because it could not provide light-duty work to accommodate the physical limitations imposed as a result of his accepted condition. Accordingly, the Office placed appellant on the periodic compensation rolls. In November 1994, appellant worked as a cab driver for four days and he has not worked since.

In a decision dated January 24, 2002, the Office found that the medical evidence established that appellant was no longer totally disabled as a result of his accepted condition. Consequently, the Office terminated appellant's wage-loss compensation.¹ The Office based its

¹ On December 1, 2001 the Office issued a notice of proposed termination of wage-loss compensation. .

determination on the April 26 and June 12, 2001 reports of Dr. Alamgir Isani, a Board-certified surgeon and Office referral physician.

The Board finds that the Office met its burden of proof in terminating appellant's compensation.

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.² Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.³

The Office wrote to appellant on December 15, 2000 requesting that he submit an updated narrative medical report from his treating physician. Although appellant's treating physician, Dr. Alan B. Perel, a Board-certified neurologist, provided his April 2, 2001 treatment notes, he did not submit a narrative medical report addressing appellant's continuing disability. On April 11, 2001 the Office referred appellant for a second opinion examination.

In a report dated April 26, 2001, Dr. Isani, a hand surgeon and Office referral physician, noted an onset of symptoms dating back to April 1993, consisting of pain and numbness in the fingers of both hands. He also noted that January 1994 electrodiagnostic studies were compatible with bilateral carpal tunnel syndrome and that appellant underwent surgery for this condition in February and March 1994. Appellant's current complaints consisted of intermittent pain in both hands and palms during activities, such as working on the car using tools. Dr. Isani also noted complaints of some stiffness in appellant's fingers especially during the morning and neck pain. On physical examination, Dr. Isani noted no cervical tenderness or history of cervical radicular pain and no specific tenderness or instability at the C7 level. He also reported full range of motion of the shoulders and elbows without any tenderness and no swelling or tenderness in the forearms, wrists or hands on either side. Additionally, Dr. Isani reported a full active range of motion of the fingers without any triggering. Phalen's and Finkelstein's tests were noted to be negative bilaterally and there was no Tinel's sign over the median or ulnar nerves at the wrist and the proximal forearm. Dr. Isani also stated that there was no atrophy of the thenar or the ulnar intrinsic muscles. X-rays obtained by Dr. Isani revealed some irregularity in the metacarpal head of the right index and middle fingers. Cystic changes were noted within the left lunate carpal bone. Dr. Isani diagnosed status post bilateral carpal tunnel decompressions and decompression and release of stenosing tenosynovitis of the left middle finger and the right middle and ring fingers. Dr. Isani recommended additional electrodiagnostic testing prior to assessing the nature of appellant's residual complaints and his ability to return to work.

Nerve conduction studies and an electromyogram were administered May 29, 2001. In a follow-up report dated June 12, 2001, Dr. Isani noted that the recent electrodiagnostic study was suggestive of some residual dysfunction of the left median nerve at the wrist without any distal denervation. He also noted that the values for the right medial nerve were within normal limits. Sensory conduction of the left median nerve was reportedly prolonged but the motor latency

² *Curtis Hall*, 45 ECAB 316 (1994).

³ *Jason C. Armstrong*, 40 ECAB 907 (1989).

across the wrist was normal. Additionally, sensory and motor latency for the right median nerve was reported to be within normal limits. Considering appellant's symptoms, the results on physical examination and the recent test results, Dr. Isani explained that it appeared appellant had some residual incomplete recovery of the left median nerve function following the left carpal tunnel release in 1994. He noted, however, that appellant's right side had completely resolved. Dr. Isani stated that appellant had minimal disability as it regards to both hands and he could return to work in his regular occupation as a mechanic. He also stated that appellant had reached maximum medical improvement. Dr. Isani concluded that the incomplete resolution of appellant's median nerve compression neuropathy did not medically preclude him from being able to work in his regular job as a mechanic without restrictions.

Dr. Perel provided his December 21, 2001 treatment notes and a form report, which noted a diagnosis of carpal tunnel syndrome and cervical radiculopathy. However, much like his earlier submissions, the recent treatment notes are largely illegible and the report and billing form provided only diagnostic codes. Moreover, Dr. Perel provided no justification for his request for a repeat electromyogram or any explanation for the requested authorization of physical therapy twice weekly for 12 weeks.

While Dr. Perel has been appellant's treating physician since 1995, other than his initial report dated June 2, 1995, the record does not include another narrative medical report from Dr. Perel. In contrast, Dr. Isani provided a thorough evaluation including x-rays, diagnostic studies, a physical examination and a review of appellant's medical and employment histories. The weight of the medical evidence, as represented by Dr. Isani's April 26 and June 12, 2001 reports, establishes that appellant is no longer disabled by his employment-related bilateral carpal tunnel syndrome. Accordingly, the Board finds that the Office met its burden of proof in terminating appellant's wage-loss compensation.

The January 24, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 7, 2003

Colleen D. Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member