

disability on or about January 28, 2003 and an emotional condition causally related to his accepted right carpal tunnel syndrome.¹

By decisions dated October 2, 2003 and September 16, 2004, the Office denied appellant's claim for a recurrence of disability and an emotional condition causally related to his accepted right carpal tunnel syndrome. By decisions dated May 6, 2004 and September 29, 2005, an Office hearing representative remanded the case for further development.

In a report dated October 24, 2002, Dr. Louis H. Rappoport, an attending Board-certified orthopedic surgeon, stated that appellant's right carpal tunnel syndrome had resolved.²

In a November 1, 2002 report, Dr. Mark Zachary, an attending Board-certified orthopedic surgeon who performed appellant's carpal tunnel release, provided findings on physical examination. He indicated that appellant could perform regular work as of November 7, 2002, following his right carpal tunnel release on September 10, 2002.

In a report dated April 28, 2003, Dr. John A. Mattson, an attending psychiatrist, stated that appellant had a four-year history of a major depressive disorder which had been aggravated by a "hostile work environment" during the previous two years. On July 27, 2003 he diagnosed major depression and a severe sleep disorder due to chronic pain caused by degenerative joint disease of the left hip, cervical spondylosis, right shoulder impingement syndrome, occipital headaches and right carpal tunnel syndrome. Dr. Mattson indicated that appellant was totally disabled.

In a report dated September 16, 2003, Dr. Borislav Stojic, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's condition and findings on physical examination. He stated:

"Examination of the left and right wrist revealed normal range of motion. Well healed surgical scar five centimeters right volar wrist.... There was no intrinsic weakness and/or atrophy on the right.

"Grip strength in the left and right hand, as recorded by dynamometer, revealed 40-38-36 pounds in the right dominant hand; 82-80-78 pounds in the left minor hand.

¹ Appellant has a separate claim accepted for a right shoulder strain and cervical strain in 2002 with consequential depression and chronic pain accepted in 2004.

² Dr. Rappoport noted that appellant was scheduled for surgery for a nonwork-related right shoulder condition on November 7, 2002.

“There was no measurable atrophy in the upper extremities.”

* * *

“[I]n the course of evaluation of the right wrist, there was some tenderness present at the base of the right thumb. [Appellant] states that occasionally he has a ‘sound’ at the carpal metacarpal joint, metacarpal phalangeal joint of the right thumb was appreciated. Range of motion of the joints of the right thumb was normal.”

* * *

“With respect to the right carpal tunnel syndrome which was treated surgically with no evidence of recurrent carpal tunnel syndrome, surgery was successful and based upon the physical findings at this time, I do not have any recommendations regarding the physical limitations relating to the right hand as a result of the surgically treated right carpal tunnel [syndrome].”

* * *

“With respect to [appellant’s] physical capacity, he is obviously capable to perform [the] [l]imited-[d]uty [a]ssignment he accepted on December 10, 2002, 8 hours a day, 40 hours per week.

“There is no rationale from the orthopedic standpoint [as to] why [appellant] stopped working on January 28, 2003.”

* * *

“[Appellant’s] subjective complaints ... [do] not correlate with the objective orthopedic findings....”

In a December 3, 2003 report, Dr. Alvin C. Burstein, a Board-certified psychiatrist, provided the results of a mental status evaluation and psychological testing. He diagnosed depression and opined that this condition was causally related to appellant’s orthopedic injuries, which included right shoulder impingement, cervical strain, degenerative disease of the hip and neck and right carpal tunnel syndrome. Dr. Burstein indicated that appellant was totally disabled as of January 28, 2003. In a supplemental report dated January 9, 2004, Dr. Burstein stated that appellant’s depression was aggravated by his pain and pain medications. He indicated that appellant could not return to work until he underwent detoxification from his narcotic medications.

In a report dated August 23, 2004, Dr. Augusta S. Roth, a Board-certified psychiatrist and an Office referral physician, provided the results of a psychological evaluation. She diagnosed a recurrent major depressive disorder and pain disorder associated with appellant's general medical condition. Dr. Roth stated:

“[Appellant] did have a major depressive episode in the late 1990's, prior to the injuries documented on the statement of accepted facts. However, this depression was in remission before the injuries recurred. He was able to work full time, take care of his own home and continue a long-term relationship. Since the injuries, there has been a full relapse in depression.

“[Appellant] also has chronic pain from well-documented skeletal problems, including the right wrist carpal tunnel syndrome. The pain is most likely both causative of and worsened by, his depression.

“I have been asked to answer the following two questions --

(1) whether [appellant's] work-related injury, carpal tunnel syndrome, has resolved.

[Appellant's] work-related injury, carpal tunnel syndrome, has not resolved. He reports continued, although decreased pain in his wrist and decreased grip strength. He reports that he would be unable to work even without the other orthopedic disorders.

(2) whether [appellant's] work-related injury carpal tunnel syndrome is medically connected to an emotional condition.

[Appellant] had a prior history of depression in the late 90's. He received a variety of medication trials.... He reported a definite decrease in depressive symptoms and full return to functioning. Recurrence of the full features of major depression has occurred since the injuries, related to the chronic pain and inability to work.”

In a December 13, 2005 report, Dr. Jeremy R. Becker, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's condition and findings on physical examination. He stated that appellant's accepted right carpal tunnel syndrome had essentially resolved with no indication of active carpal tunnel syndrome. Dr. Becker stated that “[Appellant's] carpal tunnel syndrome is not affecting his ability to return to work at this point and, therefore, from the aspect of this condition he can work full time.”

By decision dated January 3, 2006, the Office denied appellant's claim for a recurrence of disability on or about January 28, 2003 or an emotional condition causally related to his accepted right carpal tunnel syndrome.

Appellant requested a review of the written record. By decision dated April 21, 2006, an Office hearing representative affirmed the January 3, 2006 decision.

LEGAL PRECEDENT

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.³ This burden includes the necessity of providing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.⁴

*“Recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.”*⁵ (Emphasis in the original.)

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that the claimant’s condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁶

In assessing medical evidence, the number of physicians supporting one position or another is not controlling; the weight of such evidence is determined by its reliability, its probative value and its convincing quality. The factors that comprise the evaluation of medical evidence include the opportunity for and the thoroughness of physical examination, the accuracy and completeness of the physician’s knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.⁷

The opinions of physicians who have training and knowledge in a specialized medical field have greater probative value concerning medical questions peculiar to that field than do the opinions of other physicians.⁸

ANALYSIS

Appellant sustained right carpal tunnel syndrome in the performance of duty. He filed a claim for a recurrence of disability on or about January 28, 2003 and for an emotional condition consequential to his right carpal tunnel syndrome.

³ *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

⁴ *Lourdes Davila*, 45 ECAB 139 (1993).

⁵ 20 C.F.R. § 10.5(x).

⁶ *Walter D. Morehead*, 31 ECAB 188 (1979).

⁷ *Joan F. Burke*, 54 ECAB 406 (2003).

⁸ *Mary S. Brock*, 40 ECAB 461 (1989).

On October 24, 2002 Dr. Rappoport, an attending Board-certified orthopedic surgeon, stated that appellant's right carpal tunnel syndrome had resolved. On November 1, 2002 Dr. Zachary, an attending Board-certified surgeon, who performed appellant's right carpal tunnel release on September 22, 2002, indicated that appellant could perform regular work as of November 7, 2002. On September 16, 2003 Dr. Stojic, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's condition and findings on physical examination. He stated that examination of his right wrist revealed normal range of motion, no intrinsic weakness and no atrophy. Dr. Stojic opined that appellant's right carpal tunnel surgery was successful and there was no evidence of recurrent carpal tunnel syndrome. He noted that appellant's subjective complaints did not correlate with the objective orthopedic findings and stated: "There is no rationale from the orthopedic standpoint [as to] why [appellant] stopped working on [January 28, 2003]." On December 13, 2005 Dr. Becker, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's condition and findings on physical examination. He stated that appellant's accepted right carpal tunnel syndrome had essentially resolved with no indication of active carpal tunnel syndrome. Dr. Becker stated that appellant could work full time. Based on the reports of these four Board-certified orthopedic surgeons, the Board finds that appellant failed to establish that he sustained a recurrence of disability on or after January 28, 2003 causally related to his accepted right carpal tunnel syndrome.

Regarding appellant's claim for an emotional condition consequential to his accepted right carpal tunnel syndrome, the weight of the medical evidence does not establish that this condition was not caused or aggravated by his employment injury. Dr. Zachary and Dr. Rappoport, both attending orthopedic surgeons, determined that appellant's right carpal tunnel syndrome had resolved in November 2002. As noted, the opinions of physicians who have training and knowledge in a specialized medical field have greater probative value concerning medical questions peculiar to that field than do the opinions of other physicians. Dr. Mattson diagnosed major depression and a severe sleep disorder caused by chronic pain due to left hip degenerative joint disease, cervical spondylosis, right shoulder impingement syndrome, occipital headaches and right carpal tunnel syndrome and indicated that appellant was totally disabled. Dr. Burstein diagnosed depression and opined that this condition was causally related to appellant's orthopedic injuries which included a cervical strain, right shoulder impingement, degenerative disease of the hip and neck and right carpal tunnel syndrome. He indicated that appellant was totally disabled as of January 28, 2003. Dr. Roth diagnosed a recurrent major depressive disorder and opined that appellant's right carpal tunnel syndrome had not resolved and was one of the causes of his depression. Although Dr. Mattson, Dr. Burstein and Dr. Roth attributed appellant's emotional condition, in part, to continuing problems with his right carpal tunnel syndrome, they are psychiatrists and their opinions regarding appellant's orthopedic condition are of less probative value than the opinions of Dr. Zachary and Dr. Rappoport who are orthopedic specialists. The weight of the medical evidence does not establish that appellant sustained an emotional condition causally related to his accepted right carpal tunnel syndrome.

The Board finds that the weight of the medical evidence fails to establish that appellant sustained a recurrence of disability on or after January 28, 2003 or an emotional condition causally related to his accepted right carpal tunnel syndrome.

CONCLUSION

The Board finds that appellant failed to establish that he sustained a recurrence of disability on or about January 28, 2003 or an emotional condition causally related to his accepted right carpal tunnel syndrome.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated April 21 and January 3, 2006 are affirmed.

Issued: October 25, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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