

In a report dated April 29, 2003, Dr. Kenneth A. Davenport, Board-certified in orthopedic surgery, stated:

“[Appellant] is back today having increasing problems with his right elbow.... He could be having some recurrent lateral epicondylitis. Today he comes back in the situation, he feels, having deteriorated steadily. It is apparently made worse by his ongoing work.... I feel that he probably does have the posterior impingement problem and also has chronic pain syndrome involving the right upper extremity. I doubt if he would markedly benefit from any increasing in surgery. My recommendation would be that he discontinue working as I think that situation continues to make him worse.”

On June 4, 2003 appellant filed a Form CA-7 claim for compensation, requesting compensation for wage loss beginning May 21, 2003.

By letter dated July 10, 2003, the Office advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits based on a recurrence of disability. The Office asked appellant to submit a medical report from his treating physician containing an opinion as to whether his claimed condition as of May 21, 2003 was causally related to his August 14, 1998 employment injury.

By decision dated September 4, 2003, the Office denied appellant compensation for a recurrence of his accepted right elbow condition. The Office found that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability as of May 12, 2004 was caused or aggravated by the August 14, 1998 employment injury.

By letter dated September 19, 2003, appellant’s attorney requested an oral hearing. In a September 16, 2003 report, Dr. Davenport stated:

“We know [appellant] is unable to continue his employment as a general maintenance person at the employing establishment due to an injury that originally occurred on August 14, 1998 and his subsequent recurring symptoms that have made it impossible for him to continue to work after the date of May 21, 2003.”

In a February 4, 2004 report, Dr. Davenport noted appellant’s complaints of elbow and hand pain which bothered him a lot when he used a snow blower. He advised that x-ray results of the hand indicated degenerative changes of the right elbow joint. Dr. Davenport recommended surgery and stated:

“In terms of the elbow he has diffuse pain exacerbated with elbow motions. We know from his past history that he had an extensor slide performed for some tennis elbow but his tenderness is more diffuse at this point in time and it occurs with almost any elbow motion, particularly trying to go into extension. I think he does have a small osteophyte present at the tip of the olecranon that causes an impingement type problem and he may eventually have to have that removed but

in terms of his x-ray he does not show any signs of an ongoing degenerative arthritic process.”

By decision dated April 13, 2004, an Office hearing representative found that the case was not in posture for decision and remanded for further development of the evidence. The hearing representative found that the Office, upon receiving Dr. Davenport’s reports indicating that appellant sustained a recurrence of his accepted August 14, 1998 employment injury, had a duty to request additional medical evidence clarifying whether he had sustained a spontaneous recurrence of work-related symptoms without a new intervening cause, or whether he had a new injury due to continuing work factors after August 14, 1998. The hearing representative therefore remanded for the Office to request an explanation from appellant as to whether the claimed May 21, 2003 disability was a spontaneous return to symptoms without a new intervening cause, or constituted a new injury due to continuing work factors after August 14, 1998.

Dr. Davenport submitted a one-sentence report dated April 27, 2004 in which he stated:

“Please note [appellant’s] current symptoms stem from the injury that he sustained in 1998 that we had seen him for [as] well documented in his chart.”

On May 13, 2004 appellant indicated that he believed he sustained a recurrence of his work-related disability as of May 21, 2003.

By decision dated June 10, 2004, the Office denied appellant’s claim for a recurrence of disability.

On June 17, 2004 appellant requested a hearing, which was held on July 18, 2005.

By decision dated October 3, 2005, an Office hearing representative affirmed the June 10, 2004 decision.

By letter dated December 7, 2005, appellant’s attorney requested reconsideration. Appellant submitted reports dated November 3 and 29, 2005 from Dr. Davenport, who indicated in his November 3, 2005 report that appellant was having increased difficulties with his right elbow problem. In his November 29, 2005 report, Dr. Davenport reviewed the history of injury, stated findings on examination and indicated that appellant had experienced various problems affecting his right upper extremity, in addition to his accepted epicondylitis conditions. These included ulnar nerve neuropathy, shoulder impingement syndrome and a posterior impingement-type problem in the right elbow region. He advised that appellant also eventually developed a certain element of reflex sympathetic dystrophy. Dr. Davenport concluded that, as of the last visit, appellant still had signs and symptoms of the posterior compartment problem on the right elbow in addition to impingement syndrome of the right shoulder.

By decision dated February 3, 2006, the Office denied modification of the June 10, 2004 decision.

LEGAL PRECEDENT

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing 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 who supports that conclusion with sound medical reasoning.¹ A recurrence of disability is defined as the inability to work caused by a spontaneous change in a medical condition which results from a previous injury or illness without an intervening injury or new exposure in the work environment that caused the illness.²

ANALYSIS

Appellant has failed to submit any medical opinion containing a rationalized, probative report which relates his condition or disability as of May 21, 2003 to his accepted right elbow condition. For this reason, he has not discharged his burden of proof to establish his claim that he sustained a recurrence of disability as a result of his accepted employment condition.

The only medical evidence which appellant submitted consisted of the reports from Dr. Davenport. The weight of the medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.³ Dr. Davenport's reports provided a history of injury and a diagnosis of his current condition and indicated generally that appellant complained of disabling pain as of May 21, 2003, but did not contain a probative, rationalized medical opinion sufficient to establish that appellant's disability as of May 21, 2003 was causally related to his accepted right elbow epicondylitis condition.

Dr. Davenport noted in his April 29, 2003 report that appellant complained of having increasing problems with his right elbow, which could indicate recurrent lateral epicondylitis. He related appellant's belief that his elbow condition was deteriorating steadily and apparently worsened by his ongoing work duties. He diagnosed a posterior impingement problem in addition to chronic pain syndrome involving the right upper extremity. In a February 4, 2004 report, Dr. Davenport noted x-ray results indicated degenerative changes of the right elbow joint. He stated that appellant complained of elbow and hand pain which was aggravated when he used a snow blower, in addition to diffuse pain exacerbated with elbow motions. In addition, he stated that appellant's elbow pain occurred with almost any elbow motion, particularly on extension. Dr. Davenport stated, however, that appellant's x-ray did not show any signs of an ongoing degenerative arthritic process. He concluded summarily in his April 27, 2004 report that appellant's current symptoms stemmed from the August 14, 1998 employment injury.

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

² *See* 20 C.F.R. § 10.5(x); *Donald T. Pippin*, 54 ECAB 631 (2003).

³ *See Ann C. Leanza*, 48 ECAB 115 (1996).

The reports from Dr. Davenport do not contain sufficient medical evidence demonstrating a causal connection between appellant's employment-related condition and his alleged recurrence of disability. Causal relationship must be established by rationalized medical opinion evidence. Dr. Davenport did not explain the medical process through which any of appellant's accepted right elbow epicondylitis condition would have been competent to cause the alleged recurrence of disability, nor did he indicate how appellant's pain symptoms as of May 21, 2003 were causally related to the August 14, 1998 employment injury. Dr. Davenport's opinion, therefore, is of limited probative value as it does not contain any medical rationale explaining how or why appellant's accepted condition is causally related to his alleged recurrence of disability.⁴ Appellant has thus failed to submit evidence to show he sustained a worsening of his right elbow condition or was totally disabled from all work after May 21, 2003. As appellant did not submit medical evidence sufficient to establish that he sustained a recurrence of his work-related right elbow condition, the Office hearing representative properly affirmed the denial of compensation in his October 3, 2005 decision.⁵

Following the October 3, 2005 decision, appellant submitted Dr. Davenport's November 3 and 29, 2003 reports. Dr. Davenport noted appellant's increasing difficulties with his right elbow problem and diagnosed various other conditions he developed in his right upper extremity. These reports, however, did not address the causal connection, if any, between appellant's employment-related right elbow epicondylitis and his alleged recurrence of disability. Dr. Davenport's reports failed to provide an explanation of how appellant's right elbow epicondylitis would cause or contribute to his disability as of May 21, 2003. While his reports provided a diagnosis of appellant's current conditions, they did not provide a discussion of how appellant's accepted right elbow condition would cause or contribute to his alleged disability as of May 21, 2003 was causally related to his accepted right elbow epicondylitis condition.

Dr. Davenport, therefore, failed to submit probative, rationalized medical evidence sufficient to establish that appellant's current condition was causally related to his August 14, 1998 employment injury. Appellant has therefore failed to submit sufficient medical evidence supporting his claim that he sustained a recurrence of his employment-related disability as of May 21, 2003. The Office properly found that appellant was not entitled to compensation based on a recurrence of disability.

CONCLUSION

The Board finds that appellant has not met his burden to establish that he was entitled to compensation for a recurrence of disability as of May 21, 2003 causally related to his accepted right elbow condition.

⁴ *William C. Thomas*, 45 ECAB 591 (1994).

⁵ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the February 3, 2006 and October 3, 2005 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: September 26, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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