

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

L.A., Appellant

and

**DEPARTMENT OF DEFENSE, DEFENSE
LOGISTICS AGENCY, KELLY AIR FORCE
BASE, San Antonio, TX, Employer**

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**Docket No. 08-1601
Issued: December 18, 2008**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 15, 2008 appellant filed an appeal from a decision of the Office of Workers' Compensation Programs dated February 15, 2008. Pursuant to 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 established that he sustained a recurrence of disability causally related to his September 27, 1990 employment injury.

FACTUAL HISTORY

On September 27, 1990 appellant, then a 34-year-old materials handling equipment operator, sustained injury when jammed his left thumb while loading boxes. He did not stop work. Appellant resigned from the employing establishment effective November 8, 1997. On June 19, 2004 he filed a Form CA-2, occupational disease claim, alleging that the September 1990 injury caused a hyper flexion injury and volar cysts to his left wrist and thumb.

Appellant submitted a work history showing that he worked for two employers after leaving federal employment¹ and a chronological history of his hand/wrist problem.

In a September 28, 1990 medical report, Dr. Grethe E. Wik, an osteopath, noted a history of thumb injury the previous day. On examination, the left thumb was moderately swollen with decreased range of motion. Dr. Wik reported that left thumb x-ray was within normal limits and diagnosed possible rupture of extensor hallucis longus tendon of the left thumb. On form reports dated August 21, 1997, Dr. Stephen C. Drukker, Board-certified in plastic and hand surgery, noted the injury of September 27, 1990 and physical findings of an inability to extend the interphalangeal (IP) joint. He diagnosed an extensor flexor tendon laceration and advised that appellant could work eight hours a day with no restrictions. In reports dated October 8 and 21, 2003, Dr. Federico P. Padua, a family physician, described the September 27, 1990 injury and noted appellant's complaint of pain in the left wrist and thumb that started immediately after the injury, extending into the forearm, arm and shoulder. Physical findings included swelling and tenderness of the left wrist with decreased range of motion of the left wrist and thumb. Dr. Padua diagnosed degenerative joint disease of the left wrist, ganglion cyst of the left wrist and ligament tear of the left wrist. On November 13, 2003 Dr. Geoffrey M. Millican, an orthopedic surgeon, noted a history of injury to the left thumb in 1990. He stated that appellant was unable to extend his thumb or use his left wrist due to painful volar cysts that had been present since 1997. Dr. Millican diagnosed de Quervain's tenosynovitis, ganglion cysts and extensor pollicis longus (EPL) dysfunction. On December 8, 2003 Dr. Gordon R. Bozarth, Board-certified in orthopedic surgery, noted an additional diagnosis of a chronic EPL tendon rupture causing lax EPL extension.

On January 7, 2005 the Office accepted that on September 27, 1990 appellant sustained a sprain/strain of the left hand. In a separate letter, it advised him to submit a Form CA-2a recurrence claim and a narrative medical report that included a physician's opinion regarding the relationship between his ability to work and the work-related condition. On May 19, 2006 appellant submitted a Form CA-2a, claiming that he had never recovered from the September 27, 1990 injury. By letter dated June 1, 2006, the Office informed him of the evidence needed to support his recurrence claim. It requested a medically rationalized opinion as to the causal relationship between his current condition and the 1990 injury.

Appellant submitted additional medical evidence including a January 24, 2005 magnetic resonance imaging (MRI) scan of the left wrist that demonstrated a well-defined lesion most consistent with a ganglion cyst. A January 31, 2005 x-ray of the left thumb revealed no radiographic evidence of fracture. In a February 15, 2005 report, Dr. Padua advised that, after the September 27, 1990 employment injury, appellant continued to work at the employing establishment and sustained a recurrence of disability. He diagnosed damage to the left thumb, carpal tunnel syndrome (CTS) of the left wrist, and tendon damage to the hand, arm and shoulder, all a direct result of the September 27, 1990 injury. A February 24, 2005 MRI scan of the right wrist demonstrated mild tenosynovitis of the extensor digitorum tendons. On November 8, 2005 Dr. Padua reiterated his diagnoses. In an April 7, 2006 report, Dr. Richard E.

¹ From July 1999 to July 2000 appellant worked as a front end loader operator and from July 2000 to August 2001 in sales and delivery.

Martinez, Board-certified in family medicine, diagnosed bilateral CTS, de Quervain's tenosynovitis of the left thumb and post-traumatic ganglion cyst of the left wrist. He advised that the conditions were work related and that, as appellant was unable to perform most activities of daily living related to hand grasping, he was completely disabled. On June 15, 2006 Dr. Padua reiterated his diagnoses and conclusions.

By decision dated August 31, 2006, the Office denied appellant's recurrence claim on the grounds that the medical evidence did not establish causal relationship.

On August 10, 2007 appellant requested reconsideration. He submitted statements from former coworkers, Charles Tanksley and Cruz Vallejo, who noted that appellant sustained an injury in 1990. Augustin Guardiola advised that in September 1995 he took appellant to the employing establishment clinic for a left knee injury and, on September 27, 1996, to the clinic for complaints that his left thumb and wrist were hurting. On August 8, 2007 Dr. Padua advised that appellant's condition had worsened with a 90 percent loss of function of the left thumb and a 60 to 80 percent loss of function of the left wrist. In an August 8, 2007 report, Dr. Martinez diagnosed bilateral CTS and a post-traumatic deformity of the left thumb with loss of function and decreased grip strength of the left hand, noting that appellant had progressive pain and disability since his initial injury in 1990.

In a decision dated February 15, 2008, the Office denied modification of the August 31, 2006 decision.

LEGAL PRECEDENT

A 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."² A person 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 she claims compensation is causally related to the accepted injury. This burden of proof requires that an employee furnish 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 reasoning.³ Where no such rationale is present, medical evidence is of diminished probative value.⁴

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁵ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical opinion of whether there is a

² 20 C.F.R. § 10.5(x); *R.S.*, 58 ECAB ____ (Docket No. 06-1346, issued February 16, 2007).

³ *I.J.*, 59 ECAB ____ (Docket No. 07-2362, issued March 11, 2008); *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

⁴ *See Ronald C. Hand*, 49 ECAB 113 (1957); *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

⁵ *Jennifer Atkerson*, 55 ECAB 317 (2004).

causal relationship between the claimant's diagnosed condition and the compensable employment factors. 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 diagnosed condition and the specific employment factors identified by the claimant.⁶

ANALYSIS

The Office accepted that appellant sustained a sprain/strain of the left hand on September 27, 1990. Appellant subsequently resigned from the employing establishment in November 1997 and worked for two other employers in the private sector.⁷ In May 2006 he filed a recurrence of disability claim. To establish that a claimed recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between the present condition and the accepted injury must support the physician's conclusion of a causal relationship.⁸

Dr. Wik's September 28, 1990 report established that appellant injured his left thumb at work on September 27, 1990. She reported swelling with decreased range of motion but no fracture on x-ray. Dr. Drukker's August 21, 1997 reports provided diagnoses of extensor flexor tendon laceration with a limitation in the thumb IP joint motion and an opinion that appellant could work eight hours a day without any physical restrictions. As noted, appellant thereafter entered the private sector.

In medical reports beginning in October 2003, Dr. Padua addressed appellant's complaint of left wrist and thumb pain that started immediately after the 1990 injury, now extending into forearm, arm and shoulder. He provided physical findings of swelling and tenderness of the left wrist with decreased range of motion of the left wrist and thumb and diagnosed degenerative joint disease of the left wrist, ganglion cyst of the left wrist and ligament tear of the left wrist. On November 12, 2003 Dr. Millican diagnosed de Quervain's tenosynovitis, ganglion cysts and EPL dysfunction, and on December 8, 2003 Dr. Bozarth diagnosed chronic EPL tendon rupture causing lax EPL extension. The January and February 2005 MRI scan studies of the wrists provided demonstrated a lesion consistent with a ganglion cyst on the left and mild tenosynovitis on the right. Dr. Padua advised on February 15, 2005 and June 15, 2006 that appellant continued to work at the employing establishment and had sustained a recurrence of disability and on August 8, 2007 advised that appellant had a 90 percent loss of function of the left thumb and a 60 to 80 percent loss of function of the left wrist. However, none of the physicians addressed how appellant's injury to his left thumb in 1990 would cause or contribute to the degenerative joint disease noted in his left wrist. The physicians did not provide a review of the medical records contemporaneous with the 1990 left thumb injury.

⁶ *I.J.*, *supra* note 3; *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Supra* note 2.

⁸ *Mary A. Ceglia*, 55 ECAB 626 (2004).

Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ As none of the above reports provide an opinion regarding the cause of appellant's diagnosed conditions, they are insufficient to meet his burden of proof.

In reports dated April 7, 2006 and August 8, 2007, Dr. Martinez diagnosed bilateral CTS, de Quervain's tenosynovitis of the left thumb and post-traumatic ganglion cyst of the left wrist. He advised that the conditions were work related and that, as appellant was unable to perform most activities of daily living related to hand grasping, he was completely disabled, and had progressive pain and disability since his initial injury in 1990.

To establish causal relationship, a claimant must submit a physician's report in which the physician reviews the employment factors identified by the claimant as causing the claimed condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.¹⁰ The Board finds that Dr. Martinez's opinion that appellant's thumb and wrist problems were caused by the December 27, 1990 employment injury is insufficient to meet appellant's burden of proof. The record does not establish that the physician had a complete history of the 1990 injury or in the federal and private sectors appellant's employment. Dr. Martinez did not furnish a reasoned opinion explaining the mechanics of how the 1990 left thumb injury caused appellant's current thumb condition or contributed to the diagnosed wrist complaints. His opinion is therefore insufficient to establish that appellant sustained a recurrence of disability causally related to the September 27, 1990 employment injury.

The record does not provide a rationalized medical opinion explaining how appellant's claimed recurrence of disability was caused by the accepted sprain/strain of the left thumb or to establish that the additional diagnosed conditions were caused by his federal employment.¹¹ As appellant did not submit medical evidence sufficient to establish his claim, he did not meet his burden of proof to establish that he sustained a recurrence disability. The Office properly denied his claim.¹²

CONCLUSION

The Board finds that appellant failed to establish that he sustained a recurrence of disability causally related to his September 27, 1990 employment injury.

⁹ *Willie M. Miller*, 53 ECAB 697 (2002).

¹⁰ *D.D.*, 57 ECAB 734 (2006).

¹¹ *Id.*

¹² *Tammy L. Medley*, 55 ECAB 182 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 15, 2008 be affirmed.

Issued: December 18, 2008
Washington, DC

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

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

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