

right middle finger when the “entire top corner of a supply cabinet fell out and on [her] right hand and wrist.” Appellant sought medical treatment on February 27, 2007.

Dr. Steven J. Ravich, a Board-certified orthopedic surgeon, examined appellant on March 5, 2007 and diagnosed work-related sprained right wrist. He stated that appellant was unable to work. On March 21, 2007 Dr. Ravich expanded his diagnoses to include work-related sprained right wrist and carpal tunnel syndrome. He stated that appellant was unable to work due to these conditions. Dr Ravich repeated these diagnoses on April 11 and 24, 2007.

In a letter dated April 5, 2007, the Office informed appellant that the evidence she submitted was not sufficient to establish carpal tunnel syndrome as a result of the February 23, 2007 employment incident. Appellant submitted a note dated March 5, 2007 from Dr. Ravich, who described her employment incident of February 23, 2007 as “several items of various weights ranging from 5 to 10 pounds fell out of a cabinet landing on her right wrist.” At that time appellant’s physical examination revealed a negative Tinel’s sign and a negative Phalen’s test. Dr. Ravich diagnosed right wrist sprain. He completed a note on March 21, 2007 and stated that appellant had no relief from her wrist sprain symptoms and found that appellant had positive Phalen’s test and positive Tinel’s sign. On April 11, 2007 Dr. Ravich stated that appellant had minimal improvement of her right carpal tunnel syndrome and exhibited decreased motion and decreased strength in her right wrist. He noted positive Phalen and Tinel’s signs.

In a report dated July 18, 2007, Dr. Stephen Nedelcu, a Board-certified internist, stated that he examined appellant on February 23, 2007 due to the injury which resulted from large numbers of items from a supply cabinet falling on her right hand and wrist. Appellant exhibited redness, numbness and swelling of her right hand and right wrist. Dr. Nedelcu diagnosed contusion of the right hand with possible nerve involvement of the second, third and fourth fingers as a result of the employment incident. He stated that appellant was totally disabled due to this condition from February 27 through April 18, 2007.

The Office accepted appellant’s claim for right wrist sprain and contusion of the wrist and hand on May 9, 2007. In a separate decision dated May 9, 2007, it denied appellant’s claim for continuation of pay after March 21, 2007. The Office found that the medical evidence suggested a change in appellant’s right wrist condition after March 5, 2007, which was not employment related.

On June 4, 2007 appellant filed a claim for compensation requesting compensation for leave without pay from March 22 through June 1, 2007. By decision dated June 8, 2007, the Office denied appellant’s claim finding that the medical evidence did not support disability for work due to the February 23, 2007 employment injury on or after March 22, 2007. Appellant, through her attorney, requested an oral hearing on June 21, 2007. She submitted a report from Dr. Ravich dated May 23, 2007. Dr. Ravich stated that appellant had trauma on February 23, 2007, that she had no prior history of wrist or hand problems and that she was treated for the February 23, 2007 injury. He diagnosed right wrist and hand contusion with a sprain as well as carpal tunnel syndrome. Dr. Ravich stated, “All her present symptoms are causally related to her injury of record.”

Dr. Serge Alerte, a Board-certified internist, examined appellant on February 23, 2007 and noted that she sustained a right hand injury. He noted that appellant's right hand was oozing and that her finger was tender to palpation as well as tenderness in the wrist and hand and right little finger.

In a report dated June 12, 2007, Dr. Ravich noted that appellant continued to exhibit right wrist pain and carpal tunnel syndrome. He stated, "At this time, the patient was advised that she should have treatment for right carpal tunnel, which is directly and causally related to her injury of record."

Dr. Mark A.P. Filippone, a physician Board-certified in physical medicine and rehabilitation, examined appellant on October 5, 2007. He described her history of injury and noted that several heavy objects fell on her hand and wrist. Dr. Filippone found atrophy of the right thenar eminence and positive Tinel's sign. He diagnosed bilateral carpal tunnel syndrome based on electromyogram as well as post-traumatic contusion of the right wrist. Dr. Filippone attributed appellant's diagnosed conditions to her February 23, 2007 employment injury.

Appellant testified at her oral hearing on October 16, 2007. By decision dated November 30, 2007, the hearing representative denied appellant's claim for compensation on or after March 22, 2007 due to her accepted employment injuries. He found that the medical evidence supported that appellant's disability after March 22, 2007 was due to her diagnosed, but not accepted, condition of carpal tunnel syndrome and therefore not currently compensable.

LEGAL PRECEDENT

Appellant for each period of disability claimed, has the burden of proving by a preponderance of the reliable, probative and substantial evidence that she is disabled for work as a result of her employment injury. Whether a particular injury caused an employee to be disabled for employment and the duration of that disability are medical issues which must be provide by preponderance of the reliable probative and substantial medical evidence.¹

Generally, findings on examination are needed to justify a physician's opinion that an employee is disabled for work. The Board has stated that, when a physician's statements regarding an employee's ability to work consist only of a repetition of the employee's complaints that he or she hurts too much to work, without objective signs of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.²

ANALYSIS

The Office accepted that appellant sustained right wrist sprain and contusion of the wrist and hand due to the February 23, 2007 employment injury. Beginning on March 21, 2007, Dr. Ravich, a Board-certified orthopedic surgeon, provided the additional diagnosis of carpal

¹ *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

² *Id.*

tunnel syndrome based on findings of a positive Tinel's sign and positive Phalen's test. The Office has not issued a final decision, which accepts or denies this condition as causally related to the February 23, 2007 employment injury.³

Dr. Nedelcu, a Board-certified internist, completed a report on July 18, 2007 and diagnosed contusion of the right hand with possible nerve involvement of the second, third and fourth fingers of appellant's right hand. He opined that appellant was totally disabled from February 27 through April 18, 2007 due to these conditions. This is the only medical evidence in the record which attributes appellant's disability on and after March 22, 2007 to her accepted employment injuries. The Board finds that this report is not sufficient to meet appellant's burden of proof to establish continuing disability, as Dr. Nedelcu did not provide any ongoing physical findings or objective signs of disability and did not provide medical reasoning explaining why he believed that the accepted conditions resulted in continuing disability. This evidence is necessary given the additional diagnosis of carpal tunnel syndrome, which the Office has not accepted as employment related and which may account for appellant's continued period of disability.

CONCLUSION

The Board finds that the medical evidence is not sufficient to establish that appellant was totally disabled on or after March 22, 2007 due to her accepted employment injuries of right wrist sprain and contusion of the wrist and hand.

³ The Board notes that the Office has not issued a final decision within one year of the date of the appeal on June 10, 2008 denying appellant's claim for carpal tunnel syndrome such that the Board may review the issue on appeal. 20 C.F.R. § 501.2(c). The only issue on appeal is whether appellant has established a period of disability on or after March 22, 2007 due to her accepted employment-related injuries, which do not include carpal tunnel syndrome.

ORDER

IT IS HEREBY ORDERED THAT November 30, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 22, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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