



The Office accepted a right hand contusion. On November 13, 2008 it accepted right hand tenosynovitis as a consequential injury. Appellant's claim for a recurrence of disability on April 24, 2006 was denied on November 9, 2006.

Appellant filed compensation claims for lost wages for intermittent dates between February 4 and April 20, June 3 and 9, August 19 and September 1, 2007.

In an undated report, Dr. Marina Bulatov, an attending Board-certified physiatrist, indicated that appellant was disabled from January 30 to February 2, 2007 due to right hand pain and swelling. She could return to modified duty on February 3, 2007.

By letter dated September 11, 2007, the Office asked appellant to provide medical evidence from her attending physician containing objective findings and an explanation of why she could not perform even her modified duty on the intermittent dates of disability between February 4 and September 1, 2007. It advised that the physician should reference the February 17, May 30 and August 28, 2006 reports of Dr. Aubrey A. Schwartz, a Board-certified orthopedic surgeon and an Office referral physician, and explain how appellant's symptoms in 2007 were causally related to her September 14, 2005 employment injury.<sup>1</sup>

On February 15, 2007 Dr. Bulatov stated that appellant requested an emergency appointment on February 8, 2007 because her right hand was swollen at the end of her workday. She could not see her because of scheduling issues. Appellant stayed home but returned to work on February 9, 2007. Dr. Bulatov diagnosed right hand tenosynovitis and indicated that appellant could perform work with a restriction of no repetitive use of her right hand. On February 27, 2005 she stated that appellant had increased right hand pain and swelling. Dr. Bulatov provided findings on physical examination that included swelling and diminished grip strength. She placed appellant off work from February 20 to 28, 2007. Dr. Bulatov indicated that appellant could return to modified work on March 12, 2007 but did not address her capacity for work between March 1 and 12, 2007. Appellant requested an emergency appointment with Dr. Bulatov on March 22, 2007. Dr. Bulatov noted that appellant saw Dr. Kendrick E. Lee, a Board-certified orthopedic surgeon specializing in hand surgery, on March 19 and returned to work on March 20, 2007. At the end of appellant's work shift she had right hand pain and swelling. Dr. Bulatov placed her off work until March 27, 2007. In progress reports dated February 13 and 27, March 13 and 22, April 19 and August 21, 2007, she noted appellant's complaint of right hand swelling and pain and indicated that appellant was totally disabled on February 8, February 20 to 28, March 5 to 19, March 21 to 25, April 6, April 17 to 19 and August 20 to 27, 2007. Dr. Bulatov did not explain how appellant's disability was causally related to her September 14, 2005 employment injury.

In a March 19, 2007 report, Dr. Lee reviewed appellant's medical history and provided findings on physical examination. He stated that she had persistent pain and disability causally related to the September 14, 2005 right hand contusion. Dr. Lee did not indicate any specific dates of disability.

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<sup>1</sup> Dr. Schwartz found that appellant's September 14, 2005 accepted right hand contusion had resolved as of January 1, 2006. As noted, the Office denied her claim for a recurrence of disability on April 24, 2006.

An August 20, 2007 emergency room report indicated that appellant was unable to work due to right hand swelling. The report contained no medical rationale explaining how her disability on that date was causally related to her September 14, 2005 accepted right hand contusion.

By decision dated May 20, 2009, the Office denied appellant's claim for lost wages for intermittent dates between February 4 and April 20, June 3 and 9, August 19 and September 1, 2007 on the grounds that the evidence failed to establish that her disability was causally related to her September 14, 2005 employment injury.<sup>2</sup>

### **LEGAL PRECEDENT**

An employee has the burden of proving by the preponderance of the reliable, probative and substantial evidence that she was disabled for work as the result of an employment injury.<sup>3</sup> Monetary compensation benefits are payable to an employee who has sustained wage loss due to disability for employment resulting from the employment injury.<sup>4</sup> Whether a particular employment injury causes disability for employment and the duration of that disability are medical issues which must be proved by a preponderance of reliable, probative and substantial medical evidence.<sup>5</sup>

### **ANALYSIS**

Appellant filed compensation claims for lost wages for intermittent dates between February 4 and April 20, June 3 and 9, August 19 and September 1, 2007, claiming that her disability was causally related to her September 14, 2005 accepted right hand injury.

Dr. Bulatov indicated that appellant was disabled from January 30 to February 2, 2007 due to right hand pain and swelling but could return to modified duty on February 3, 2007. On February 15, 2007 she stated that appellant did not work on February 8, 2007 because her right hand was swollen at the end of her workday. Dr. Bulatov diagnosed right hand tenosynovitis and noted that appellant could perform work with a restriction of no repetitive use of her right hand. On February 27, 2005 she stated that appellant had increased right hand pain and swelling. Dr. Bulatov provided findings on physical examination that included swelling and diminished grip strength. She placed appellant off work from February 20 to 28, 2007. Dr. Bulatov indicated that appellant could return to modified work on March 12, 2007 but did not address her capacity for work between March 1 and 12, 2007. On March 22, 2007 she placed appellant off work until March 27, 2007. In progress reports dated February 13 and 27, March 13 and 22, April 19 and August 21, 2007, Dr. Bulatov advised that appellant reported right hand pain and

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<sup>2</sup> Subsequent to the May 20, 2009 Office decisions additional evidence was associated with the file. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. See 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

<sup>3</sup> *David H. Goss*, 32 ECAB 24 (1980).

<sup>4</sup> *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990).

<sup>5</sup> *Edward H. Horten*, 41 ECAB 301 (1989).

swelling and opined that she was totally disabled on February 8, February 20 to 28, March 5 to 19, March 21 to 25, April 6, April 17 to 19 and August 20 to 27, 2007. She did not explain, with medical rationale, how appellant's claimed disability on intermittent dates between February 4 and September 1, 2005 was causally related to her September 14, 2005 employment injury. Dr. Bulatov noted symptoms consisting of swelling but did not address how this was caused or contributed to by the accepted injury. Such medical rationale is particularly important in light of the two-year period between the 2005 injury and the intermittent disability in 2007.

On March 19, 2007 Dr. Lee reviewed appellant's medical history and provided findings on physical examination. He stated that she had persistent pain and disability causally related to the September 14, 2005 right hand contusion. However, Dr. Lee did not indicate any specific dates of disability or provide medical rationale explaining how her disability was causally related to the September 14, 2005 employment injury. Therefore, his opinion on causal relationship is not sufficient to establish that appellant was disabled on intermittent dates between February 4 and September 1, 2007 due to her September 14, 2005 accepted right hand condition.

An August 20, 2007 emergency room report indicated that appellant was unable to work due to right hand swelling. However, the report contained no rationalized medical explanation as to how her disability on that date was causally related to her September 14, 2005 accepted right hand contusion. Therefore, this report is not sufficient to establish that appellant was disabled on intermittent dates between February 4 and September 1, 2007 causally related to her accepted right hand injury.

Appellant failed to meet her burden of proof to provide rationalized medical evidence explaining how her disability between February 4 and April 20, June 3 and 9, August 19 and September 1, 2007 was causally related to her September 14, 2005 accepted right hand condition. Therefore, the Office properly denied her claim.

On appeal, appellant contends that she was unable to work some days because medications prescribed for her accepted condition kept her heavily sedated. On other days she was disabled because she could not use her right hand due to swelling. As noted, it is appellant's burden to provide rationalized medical evidence from a physician establishing that her claimed disability on intermittent dates in 2007 was causally related to her September 14, 2005 right hand contusion. Self-diagnosis is not a competent form of medical opinion.<sup>6</sup> Therefore, appellant's opinion that her September 14, 2005 employment injury was the cause of her disability in 2007 is of no probative value.

### **CONCLUSION**

The Board finds that appellant failed to meet her burden of proof to establish that her disability between February 4 and April 20, June 3 and 9, August 19 and September 1, 2007 was causally related to her September 14, 2005 accepted right hand contusion and tenosynovitis.

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<sup>6</sup> See *Robert J. Krstyen*, 44 ECAB 227 (1992).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 20, 2009 is affirmed.

Issued: March 24, 2010  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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