

On May 11, 2007 Dr. Mark Hendrickson, a Board-certified surgeon, diagnosed left finger mallet and noted that appellant's elbows were also causing her difficulty. In duty status report of the same date, he found that she could work four hours a day with restrictions.

On June 1, 2007 appellant filed a claim for compensation for four hours a day. In a June 4, 2007 clinic note, Dr. Hendrickson advised that on April 16, 2007 she sustained a left small finger mallet. He reiterated that she could work four hours a day with restrictions.¹

In a July 6, 2007 statement, appellant related that at the time of her April 16, 2007 injury she was working limited duty because of an employment-related right elbow injury, assigned file number xxxxxx906.² She stated, "The injury that I have sustained to my left small finger under this claim and the restrictions that accompany it, specifically, limited use of the left hand, have run concurrently with my right elbow problem and the issues and restrictions that accompany it." Appellant maintained that both the physician treating her for her left small finger injury and the physician treating her for her right elbow found that she needed "a reduced schedule while both injuries are being treated and rehabbing." She related that her physicians reduced her work hours because each of her injuries required restrictions to a separate upper extremity. Appellant concluded, "The concurrent nature of my injuries has made it difficult to work my job assignment for an extended period of time...."

On August 2, 2007 the Office noted that appellant submitted claims for wage loss beginning May 12, 2007. It advised that she had only established entitlement to compensation for a physical therapy appointment on June 22, 2007. The Office requested that she submit medical evidence from her physician explaining why she was restricted to four hours a day due to her IP joint sprain and left small finger mallet. In another letter of the same date, the Office requested that Dr. Hendrickson provide his reason for restricting appellant to part-time limited duty beginning May 2, 2007 and explain whether her reduced hours resulted solely from her left IP joint sprain and left small finger mallet.³ No response was received.

In a September 20, 2007 decision, the Office denied appellant's claim for disability compensation for four hours a day beginning May 14, 2007.

In a July 16, 2007 progress report, Dr. Hendrickson diagnosed a closed left small finger mallet, post therapy. He stated that appellant was "still pretty miserable as far as pain and function with her right lateral epicondylitis after the surgery." Dr. Hendrickson found that her work restrictions remained four hours a day at limited-duty employment.

On December 12, 2007 Dr. Hendrickson noted that appellant's left small finger mallet injury had improved and that she had no significant pain or loss of function.⁴ He found that her

¹ In an accompanying work status report dated June 4, 2007, Dr. Hendrickson found that appellant could perform sedentary work for four hours per day.

² The Office accepted that appellant sustained right lateral and medial epicondylitis under file number xxxxxx906.

³ In August 2007 the Office paid appellant intermittent hours of compensation for time lost in June and July 2007 to attend medical appointments.

⁴ Dr. Hendrickson provided the same findings and conclusions in a report dated November 21, 2007.

condition had resolved and was not interfering with her work. Dr. Hendrickson indicated that appellant experienced difficulty performing her work duties due to her bilateral medial and lateral epicondylitis of the elbows. He explained that she could work only part time with restrictions beginning May 2, 2007 due to the need “to facilitate her recovery and rehabilitation from the left small finger mallet injury in the context of her problems with both elbows. With appellant’s desire to maintain some work effort but clearly not being able to maintain a full eight-hour day, we have reduced her to a four-hour day.”

On May 19, 2008 appellant requested reconsideration. She related that Dr. Hendrickson believed that both her right elbow injury and left small finger injury would improve with fewer work hours. Appellant noted that both of her extremities were now affected and she was experiencing continued residuals simultaneously.

By decision dated June 26, 2008, the Office denied modification of its September 20, 2007 decision.⁵

On June 17, 2009 appellant again requested reconsideration. She noted that the June 26, 2008 decision, inaccurately determined that she had stopped work entirely in May 2007. Appellant advised that she resumed full-time work as of November 22, 2007.⁶

In a September 22, 2009 decision, the Office denied modification of its prior merit decisions. It determined that Dr. Hendrickson did not explain how the reduction in appellant’s work hours resulted from her April 16, 2007 work injury.

LEGAL PRECEDENT

The term disability as used in the Federal Employee’s Compensation Act⁷ means the incapacity because of an employment injury to earn the wages that the employee was receiving at the time of injury.⁸ Whether a particular injury caused an employee disability for employment is a medical issue which must be resolved by competent medical evidence.⁹ When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in the employment held when injured, the employee is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity.¹⁰ The Board will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which

⁵ The Office mistakenly found that appellant had stopped work entirely on May 14, 2007.

⁶ On July 7, 2009 appellant appealed the June 26, 2008 decision to the Board. In an order dated March 22, 2010, the Board dismissed the appeal as untimely filed. Order Dismissing Appeal, Docket No. 09-1803 (issued March 22, 2010).

⁷ 5 U.S.C. §§ 8101-8193; 20 C.F.R. § 10.5(f).

⁸ *Paul E. Thams*, 56 ECAB 503 (2005).

⁹ *W.D.*, 61 ECAB ___ (Docket No. 09-658, issued October 22, 2009); *Paul E. Thams, id.*

¹⁰ *Id.*

compensation is claimed. To do so would essentially allow employee's to self-certify their disability and entitlement to compensation.¹¹

ANALYSIS

The Office accepted that on April 16, 2007 appellant sustained a sprain of the IP joint of her left little finger and the condition of left small finger mallet. Appellant was working full time at the time of her April 16, 2007 employment injury with restrictions resulting from her right lateral and medial epicondylitis, accepted by the Office under file number xxxxxx906. Her hours of work were reduced to four hours a day on May 2, 2007. Appellant filed a claim for compensation for partial disability.

In a June 4, 2007 clinic note, Dr. Hendrickson diagnosed a left small finger mallet that occurred on April 16, 2007. He found that appellant could work four hours a day with restriction. Dr. Hendrickson did not, however, explain why she could not work more than part time due to residuals of her April 16, 2007 employment injury. A physician's opinion on causal relationship between a claimant's disability and an employment injury is not conclusive simply because it is rendered by a physician. To be of probative value, Dr. Hendrickson must provide rationale for the opinion reached. Where no such rationale is present, the medical opinion is of diminished probative value.¹²

On July 16, 2007 Dr. Hendrickson diagnosed an April 16, 2007 closed left small finger mallet for which appellant had therapy. He noted that she continued to experience difficulty due to her right lateral epicondylitis. Dr. Hendricks determined that appellant was limited to modified employment for four hours a day. He did not, however, directly attribute her disability to the April 16, 2007 work injury or provide any rationale for his opinion. A medical report is of little probative value on a given medical question if it is unsupported by medical rationale.¹³

On December 12, 2007 Dr. Hendrickson found that appellant's left small finger mallet injury had improved and that she had no significant pain or loss of function. He advised that he had restricted her to part-time employment on May 2, 2007 in an attempt to "facilitate her recovery and rehabilitation from the left small finger mallet injury in the context of her problems with both elbows." Dr. Hendrickson, however, did not explain why appellant was unable to perform full-time modified duties because of her left small finger mallet injury other than to note it would aid healing. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of Dr. Hendrickson's opinion.¹⁴ Dr. Hendrickson's opinion lacks adequate medical rationale to support appellant's claim that she became partially disabled due to her accepted work injury.

¹¹ *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹² *T.M.*, 60 ECAB ____ (Docket No. 08-975, issued February 6, 2009).

¹³ *T.F.*, 58 ECAB 128 (2006).

¹⁴ *See I.R.*, 61 ECAB ____ (Docket No. 09-1229, issued February 24, 2010).

Appellant has not submitted rationalized medical evidence based on a complete factual and medical background supporting a causal relationship between her partial disability beginning May 2, 2007 and her April 17, 2007 employment injury. Consequently, she has not met her burden of proof.¹⁵

CONCLUSION

The Board finds that appellant has not established that she was partially disabled from May 2 to November 22, 2007 due to her April 16, 2007 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the September 22, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 4, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

¹⁵ *Id.*