



which OWCP accepted for right thumb strain, lumbar strain and tenosynovitis of the left thumb. Appellant missed work for intermittent periods.

On January 30, 2013 appellant underwent surgery for a right thumb and right ring finger trigger release. On May 2, 2013 he underwent a surgical release procedure to ameliorate the condition of tenosynovitis of the left thumb.

Appellant returned to full duty on May 13, 2013.

Appellant submitted Forms CA-7 requesting compensation for wage loss for the following periods: 8 hours on May 17, 2013; 17.5 hours between May 20 through 31, 2013; 19 hours between June 3 to 14, 2013; 36 hours between June 17 through 28, 2013; 8 hours between July 1 through 12, 2013; and 40 hours between July 29 and August 9, 2013.

By letter to appellant dated August 27, 2013, OWCP requested additional factual and medical evidence to establish disability for work during periods claimed, including medical documentation to establish that he either had medical treatment or was unable to work as a result of his work injury for all dates claimed. It noted that he was authorized to return to work on full-duty status on May 13, 2013 and that it had not received any medical documentation to support the claimed periods of disability since that time. OWCP advised appellant that he had 30 days to submit the requested information.

Appellant submitted several brief medical reports from March and April 2013. None of these reports discussed whether he was disabled due to his accepted conditions for the periods claimed.

In a September 30, 2013 report, Dr. Christopher P. Patton, an osteopath, stated that appellant had undergone an electromyogram (EMG) on that date for evaluation of bilateral hand pain and electrodiagnostic evaluation of the bilateral upper limbs. He discussed the history of injury and indicated that appellant underwent surgical release in both hands but continued to experience pain, mostly in the area where the trigger finger releases were performed. Appellant also related having numbness and pain with activities. Dr. Patton diagnosed mononeuritis and carpal tunnel syndrome. He advised that bilateral EMG tests of appellant's hands showed evidence of denervation with reinnervation but no ongoing denervation. Dr. Patton asserted that all other muscles in the upper limbs were normal. He opined that there was electrodiagnostic evidence of moderate to severe bilateral carpal tunnel syndrome, with no electrodiagnostic evidence of cervical radiculopathy, plexopathy, peripheral polyneuropathy or myopathy.

By decision dated October 8, 2013, OWCP denied appellant's claim for the periods of wage-loss compensation.

### **LEGAL PRECEDENT**

It is the employee's burden of proof to establish disability during the period of time for which wage-loss compensation is claimed. The term "disability" is defined by implementing regulation as "the incapacity, because of an employment injury, to earn the wages the employee

was receiving at the time of injury. It may be partial or total.”<sup>2</sup> The Board has long held that whether a particular injury causes an employee disability for employment is a medical question which must be resolved by competent medical evidence.<sup>3</sup>

### ANALYSIS

OWCP accepted a claim for right thumb strain, lumbar strain and tenosynovitis of the left thumb. It asked appellant to submit medical evidence to support the periods of disability claimed. Appellant, however, did not provide a probative, rationalized medical opinion establishing that he was disabled for work due to the accepted conditions for May 17, May 20 through 31, June 3 to 14; June 17 through 28; July 1 through 12; and July 29 to August 9, 2013.<sup>4</sup>

As noted above, to establish entitlement to compensation, an employee must establish through competent medical evidence that disability from work resulted from the employment injury.<sup>5</sup> The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify their disability and entitlement to compensation.<sup>6</sup> Appellant has the burden to demonstrate his disability for work based on rationalized medical opinion evidence. The issue of whether a claimant’s disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>7</sup> There is no such evidence in the case record. Appellant did not offer any opinion or supporting medical rationale regarding the date that his disability began or his disability for work for any additional periods. The only medical report which described his conditions was the September 30, 2013 EMG report from Dr. Patton, who indicated that he still had bilateral hand pain and numbness despite having undergone surgical release in both hands. He diagnosed mononeuritis and carpal tunnel syndrome and stated that bilateral EMG tests of appellant’s hands showed evidence of denervation with reinnervation. Dr. Patton, however, did not provide a medical opinion containing medical rationale explaining how or why his right thumb strain, lumbar strain and tenosynovitis of the left thumb conditions were affected by or related to factors of employment during the periods claimed.<sup>8</sup> Appellant has thus failed to submit such evidence which would indicate that his accepted conditions caused any wage loss for any periods.

---

<sup>2</sup> 20 C.F.R. § 10.5(f).

<sup>3</sup> See *Donald E. Ewals*, 51 ECAB 428 (2000).

<sup>4</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>5</sup> *Donald E. Ewals*, *supra* note 3.

<sup>6</sup> *Paul E. Thams*, 56 ECAB 503 (2005).

<sup>7</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

<sup>8</sup> *Id.*

The Board also notes that there is no medical evidence of record that appellant obtained medical treatment on any of the alleged dates of disability. Therefore he has also not established that he sustained compensable wage loss due to time lost from work for medical treatment. Because appellant has not provided evidence supporting his disability for work for the periods in question, OWCP properly denied his claim for wage-loss compensation.

**CONCLUSION**

The Board finds that appellant has not met his burden to establish that he was entitled to compensation for wage loss for intermittent periods from May 17; May 20 to 31; June 3 to 14; June 17 to 28; July 1 to 12; and July 29 to August 9, 2013.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 8, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 22, 2014  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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