

relation to his federal employment on October 10, 2016. OWCP accepted appellant's claim for bilateral carpal tunnel syndrome. Dr. Donald Opgrande, Board-certified in orthopedic surgery, performed OWCP-authorized left carpal tunnel release on June 1, 2017 and right carpal tunnel release on June 15, 2017. In connection with both these surgeries, appellant stopped work for the period June 1 through July 23, 2017 and OWCP paid him wage-loss compensation benefits on the supplemental rolls. He returned to a part-time limited-duty position on July 24, 2017 and to full duty on September 1, 2017.

In a duty status report (Form CA-17) dated October 26, 2017, Dr. Opgrande listed the date of injury as October 10, 2016 and noted that appellant would be off work restricted to no use of either hand beginning November 4, 2017 for "scheduling purposes." He anticipated that appellant would be off work for two to four weeks, but advised that he would revisit his time off determination after two weeks.²

Appellant stopped work on November 4, 2017 and on November 13, 2017 he filed a notice of recurrence of disability (Form CA-2a) alleging that his work stoppage on November 4, 2017 was due to his accepted employment injury of bilateral carpal tunnel syndrome. He asserted that his hand symptoms had not improved since returning to work and indicated that he was experiencing bilateral hand pain, loss of strength, poor dexterity, and poor motor skills.

In a November 14, 2017 note, Dr. Opgrande treated appellant for continuing symptoms of hand pain despite therapy treatments. He recommended a period of two to four weeks off work and continuation of therapy to see if his condition would "settle down." In a Form CA-17 dated November 16, 2017, Dr. Opgrande noted that appellant was continuing therapy and was disabled from work with a recheck of his condition in two weeks. In a Form CA-17 dated December 1, 2017, he continued to keep appellant off work until an electromyogram (EMG) was performed.³

In a development letter dated December 5, 2017, OWCP advised appellant of the type of evidence needed to establish his recurrence of disability claim. It particularly requested that he submit a physician's reasoned opinion addressing the relationship of his claimed recurrence of disability and his original accepted injury. OWCP allotted appellant 30 days to submit the requested evidence.

In response, appellant submitted a December 13, 2017 statement in which he asserted that he continued to have bilateral hand symptoms after his surgery in mid-2017 and that these symptoms worsened after he returned to full duty in September 2017 such that he had to stop work on November 4, 2017. He advised that he engaged in taekwondo and working out at a fitness club after sustaining his accepted employment injury, but had since "adjusted" these activities per his physicians' orders.

Appellant also submitted several narrative reports, including a September 28, 2017 report from Dr. Opgrande who advised that appellant reported that the conditions of his hands were

² In a letter dated October 27, 2017, the employing establishment challenged Dr. Opgrande's disability determination, asserting that it was based on appellant's subjective complaints of hand pain.

³ Dr. Opgrande listed the date of injury as October 10, 2016 in these CA-17 forms.

improving, but he still experienced soreness in his palms. Dr. Opgrande noted findings of bilateral palmar tenderness and grip strength averaging 42 kilograms. On October 26, 2017 he indicated that physical examination revealed full range of motion of an unspecified palm with tenderness. Dr. Opgrande diagnosed status post bilateral carpal tunnel releases on June 1 and 15, 2017 with persistent palmar tenderness. He took appellant off work for two to four weeks beginning November 4, 2017, noting that he would “use the [November 4, 2017] date as an administrative date so he can make arrangements for scheduling purposes.” Dr. Opgrande advised that he would recheck appellant after two weeks to decide whether he would extend his disability to four weeks.

In a December 1, 2017 report, Dr. Opgrande noted findings of diminished grip strength and generalized tenderness in an unspecified palm/wrist, and advised that x-rays of the hands taken on that date were normal. He diagnosed bilateral carpal tunnel syndrome, and status post bilateral releases with persistent pain, tenderness, and functional loss. Dr. Opgrande indicated that it was extremely unusual for this type of problem to last this long and noted that appellant’s complaints appeared to be out of proportion to the examination findings. He continued appellant off work, and discontinued hand therapy.

In a December 28, 2017 report, Dr. Opgrande summarized his treatment of appellant, noting that on October 26, 2017 he presented with persistent pain and tenderness in his palm and diminished strength. He noted that because appellant’s condition appeared to be regressing he took him off work for two to four weeks to see how his condition progressed. Dr. Opgrande further summarized appellant’s visits to him on November 16 and December 1, 2017, and advised that he continued appellant on disability. He indicated that appellant “has been continued off work until he finishes the evaluation” of another attending physician. Dr. Opgrande diagnosed bilateral carpal tunnel syndrome and pain in both hands.

In a Form CA-17 dated January 26, 2018, Dr. Opgrande listed the date of injury as October 10, 2016 and continued appellant off work for an unspecified period, but indicated that disability should be reevaluated when a functional capacity evaluation (FCE) was performed.

By decision dated February 1, 2018, OWCP denied appellant’s claim for recurrence of disability on or after November 4, 2017 because he had not submitted sufficient medical evidence to establish such a recurrence causally related to his accepted employment injury. It noted that the “claim for recurrence is denied because you have not established that you are disabled/further disabled due to a material change/worsening of your accepted work-related conditions.”

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 resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.⁴ This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee’s physical limitations and, which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the

⁴ 20 C.F.R. § 10.5(x); *see J.D.*, Docket No. 18-1533 (issued February 27, 2019).

employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.⁵

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.⁶

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.⁷ Where no such rationale is present, the medical evidence is of diminished probative value.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a recurrence of disability on or after November 4, 2017 causally related to his accepted employment condition.

Appellant submitted several narrative reports, including an October 26, 2017 report from Dr. Opgrande who noted that physical examination revealed full range of motion of an unspecified palm with tenderness. Dr. Opgrande diagnosed status post bilateral carpal tunnel releases on June 1 and 15, 2017 with persistent palmar tenderness and took appellant off work for two to four weeks beginning November 4, 2017, noting that he would "use the [November 4, 2017] date as an administrative date so he can make arrangements for scheduling purposes."⁹ On December 1, 2017 he reported findings of diminished grip strength and generalized tenderness in an unspecified palm/wrist, and advised that it was extremely unusual for appellant's type of problem to last so long. Dr. Opgrande noted that appellant's complaints appeared to be out of proportion to the examination findings and continued him off work. In a December 28, 2017 report, he summarized his treatment of appellant, noting that appellant had been continued off work until he finished an evaluation by another attending physician. Dr. Opgrande indicated that because appellant's

⁵ *Id.*

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

⁷ *J.D.*, Docket No. 18-0616 (issued January 11, 2019); *C.C.*, Docket No. 18-0719 (issued November 9, 2018).

⁸ *H.T.*, Docket No. 17-0209 (issued February 8, 2018).

⁹ Dr. Opgrande advised that he would recheck appellant after two weeks to decide whether he would extend his disability to four weeks.

condition appeared to be regressing when he saw him on October 26, 2017 he took him off work for two to four weeks to see how his condition progressed.

The Board finds that these reports do not establish appellant's claim for a recurrence of disability on or after November 4, 2017 due to the accepted employment injury, bilateral carpal tunnel syndrome (with bilateral release surgery). Although Dr. Opgrande suggested that appellant had continuing disability due to the accepted employment injury, he did not adequately discuss the basis for this ostensible opinion or otherwise provide a rationalized medical opinion on the causal relationship between the claimed recurrence of disability and this employment injury. He appears to have recommended time off work primarily due to appellant's self-reported symptoms, but the Board has held that the fact that a condition manifests itself or worsens during a period of employment or that work activities produce symptoms revelatory of an underlying condition does not raise an inference of causal relationship between a claimed condition/period of disability and employment factors.¹⁰ Dr. Opgrande did not provide a rationalized medical opinion explaining how specific findings on physical examination and diagnostic testing showed that appellant's employment-related condition had worsened such that he could not work on or after November 4, 2017. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain adequate medical rationale explaining the relationship between a given condition/period of disability and the claimant's employment.¹¹ Therefore, these reports are insufficient to establish appellant's claim.

Appellant submitted Form CA-17 reports dated October 26, November 16, and December 1, 2017, and January 26, 2018 in which Dr. Opgrande listed the date of injury as October 10, 2016 and advised that appellant was continued on disability.¹² However, these Form CA-17 reports are mere form reports and do not contain a clear opinion on whether the accepted employment injury caused disability from employment for the claimed period; consequently, as such, they are of no probative value on the issue of causal relationship.¹³ The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹⁴ Therefore, these reports also are insufficient to establish appellant's claim.

¹⁰ *J.S.*, Docket No. 18-0944 (issued November 20, 2018).

¹¹ *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹² In these form reports, Dr. Opgrande made the following disability recommendations: October 26, 2017 report (two to four weeks beginning November 4, 2017); November 16, 2017 report (two weeks); December 1, 2017 report (until an EMG was performed); and January 26, 2018 report (for an unspecified period, but with reevaluation when an FCE was performed).

¹³ *A.A.*, Docket No. 19-0957 (issued October 22, 2019); *L.D.*, Docket No. 19-0263 (issued June 19, 2019).

¹⁴ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018). Appellant also submitted a September 28, 2017 report from Dr. Opgrande who advised that appellant reported the conditions of his hands was improving, but he still experienced soreness in his palms. In a November 14, 2017 note, Dr. Opgrande recommended that appellant stay off work for two to four weeks. However, these reports are of no probative value on the underlying issue of the present case because they contain no opinion that appellant had disability for the claimed period of disability due to the accepted employment injury. *Id.*

As appellant has not submitted rationalized medical evidence establishing causal relationship between his accepted employment injury and the claimed recurrence of disability, he has not met his burden of proof.

On appeal appellant asserts that he filed a claim for recurrence of disability because his original injury never healed. He further indicates that he has provided sufficient evidence to support a recurrence of disability on or after November 4, 2017 causally related to his accepted employment injury. As noted above, Dr. Opgrande failed to specifically address why the claimed disability was due to the accepted employment injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a recurrence of disability on or after November 4, 2017 causally related to his accepted employment injury.

ORDER

IT IS HEREBY ORDERED THAT the February 1, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 5, 2020
Washington, DC

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

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board