

JOEL HEBERT
(Appellant)

v.

TWIN RIVERS PAPER CO., LLC
(Appellee)

and

SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.
(Insurer)

Conference held: September 29, 2021
Decided: August 2, 2022

PANEL MEMBERS: Administrative Law Judges Elwin, Hirtle, and Rooks
BY: Administrative Law Judge Hirtle

[¶1] Joel Hebert appeals from a decision of a Workers' Compensation Board administrative law judge (*Pelletier, ALJ*) denying his Petitions for Award and for Payment of Medical and Related Services regarding an injury date of November 21, 2013. Mr. Hebert contends that it was error for the ALJ to find that a consent decree entered into by agreement of the parties precluded him from now arguing that the scope of his injury included his diagnosed right carpal tunnel syndrome. We agree, vacate the decision, and remand for consideration of the merits of the right carpal tunnel syndrome claim.

I. BACKGROUND

[¶2] Joel Hebert worked on the number three paper machine for Twin Rivers Paper Co., LLC. His job duties were hand intensive. The parties agreed to an amended consent decree signed by an ALJ on July 22, 2016. In that amended consent decree, the ALJ adopted the parties' agreement that Mr. Hebert experienced a work-related injury as of November 21, 2013, "in the form of a left carpal tunnel syndrome and chronic impingement syndrome in both shoulders with probable AC joint arthritis."

[¶3] At the time of the amended consent decree, Mr. Hebert had undergone a left carpal tunnel release surgery and been told that he also had right carpal tunnel syndrome. In the amended consent decree, the parties agreed that Twin Rivers would pay for the medical treatment and incapacity benefits necessitated by Mr. Hebert's left carpal tunnel surgery and a period of recovery. The amended consent decree was silent as to Mr. Hebert's right carpal tunnel syndrome.

[¶4] In 2016, Mr. Hebert retired from the paper mill and took on other employment. On August 24, 2018, Mr. Hebert underwent a right carpal tunnel release surgery and subsequently filed a Petition for Award and Petition for Payment of Medical and Related Services alleging that his right carpal tunnel condition was part of his established work injury date of November 21, 2013. The board issued a decision dated December 30, 2020, finding that Mr. Hebert's right carpal tunnel

claim was barred because the parties had set the scope of his injury in the amended consent decree of July 22, 2016, and had not included right carpal tunnel syndrome. Mr. Hebert filed a motion for further findings and fact and conclusions of law pursuant to 39-A M.R.S.A. § 318; the ALJ denied the motion. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶5] The role of the Appellate Division “is limited to assuring that the [ALJ’s] findings are supported by competent evidence, that [the] decision involved no misconception of applicable law and that the application of the law to the facts was neither arbitrary nor without rational foundation.” *Moore v. Pratt & Whitney Aircraft*, 669 A.2d 156, 158 (Me. 1995) (quotation marks omitted). Because Mr. Hebert requested findings of fact and conclusions of law following the decision, the Appellate Division will “review only the factual findings actually made and the legal standards actually applied by the [ALJ].” *Daley v. Spinnaker Indus., Inc.*, 2002 ME 134, ¶ 17, 803 A.2d 446.

B. Claim Preclusion

[¶6] Mr. Hebert argues that Law Court precedent directed the ALJ to consider the merits of his right carpal tunnel claim and that the ALJ’s denial of the claim was thus reversible error. We agree.

[¶7] In common law, the doctrine of *res judicata* has developed to bar parties from relitigating decided claims and applies to bar a claim when (1) the same parties or their privies are involved in both actions; (2) a valid final judgment was entered in the prior action; and (3) the matters presented for decision in the second action were, or might have been, litigated in the first action. *Machias Sav. Bank v. Ramsdell*, 1997 ME 20, ¶ 11, 689 A.2d 595. In workers' compensation proceedings, *res judicata* is read narrowly to preclude only issues actually litigated. *Spencer's Case*, 123 Me. 46, 121 A. 236 (1923) (holding that "an agreement of settlement" resolving injury to two fingers did not bar later litigation for injury to the thumb arising from the same occurrence); *Wacome v. Paul Mushero Const. Co.*, 498 A.2d 593 (Me. 1985) (holding that an "approved agreement" establishing a foot injury did not preclude the employee from later claiming that he injured his back in the same incident).

[¶8] We see no distinction between the consent decree entered by the agreement of the parties in Mr. Hebert's case and the "approved agreement" of *Wacome* or the "settlement agreement" of *Spencer's Case*. The ALJ cited *Hafford v. Kelly*, 421 A.2d 51, 53 (Me. 1980), to support the decision that the prior consent decree established the scope of the injury in this case. That case, however, stands for the proposition that a change in circumstances must be measured not from the time of the original injury, but from the time the consent decree was entered; the language

cited by the ALJ to distinguish a consent decree entered by agreement of the parties from an approved agreement was not relevant to the issue raised in this case. Rather, we agree with Mr. Hebert's argument that distinguishing an approved consent decree from one entered by agreement of the parties was reversible legal error.

[¶9] Under *Wacome* and *Spencer's Case*, parties are free to make agreements resolving discrete disputed issues (like Mr. Hebert's left carpal tunnel claim in 2016) without prejudice to other nascent issues that present no dispute at the time (like Mr. Hebert's right carpal tunnel claim). To do otherwise would require parties to litigate, rather than resolve by agreement, the fullest possible extent of claims even when the disputed issues in the case are discrete and resolution of disputed issues by agreement is possible.

III. CONCLUSION

[¶10] Where the parties resolved a dispute regarding left carpal tunnel syndrome by consent decree in 2016, and the consent decree was silent on the issue of right carpal tunnel syndrome, it was reversible legal error for the ALJ to bar a later claim alleging right carpal tunnel syndrome as related to the work injury. We vacate and remand the decision for consideration of the merits of Mr. Hebert's right carpal tunnel syndrome claim.

The entry is:

The administrative law judge's decision is vacated and remanded for further findings of fact and conclusions of law, consistent with this decision.

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322.

Pursuant to board Rule, chapter 12, § 19, all evidence and transcripts in this matter may be destroyed by the board 60 days after the expiration of the time for appeal set forth in 39-A M.R.S.A. § 322 unless (1) the board receives written notification that one or both parties wish to have their exhibits returned to them, or (2) a petition for appellate review is filed with the law court. Evidence and transcripts in cases that are appealed to the law court may be destroyed 60 days after the law court denies appellate review or issues an opinion.

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