

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Tyler Martin

Opinion No. 08R-23WC

v.

By: Beth A. DeBernardi
Administrative Law Judge

The Sugarman of Vermont, LLC

For: Michael A. Harrington
Commissioner

State File No. RR-51404

RULING ON CLAIMANT’S MOTION FOR RECONSIDERATION

BACKGROUND:

1. Claimant seeks reconsideration of the Department’s denial of his summary judgment motion. *See Tyler Martin v. The Sugarman of Vermont, LLC*, Opinion No. 08-23WC (March 22, 2023) (“*Martin I*”).
2. Viewing the evidence in the light most favorable to Defendant as the non-moving party, *Martin I* found that Claimant sustained a compensable injury while working for Defendant.¹ After a brief absence, he returned to work for Defendant for five months, after which his employment was terminated for reasons unrelated to his work injury on December 29, 2021. On May 2, 2022, he began a new job with a different employer, Darn Tough. After Claimant worked for Darn Tough for a month, his treating provider imposed new work restrictions² relating to his accepted work injury. Darn Tough was unable to accommodate those restrictions and terminated Claimant’s employment on June 6, 2022. *Martin I*, at Finding of Fact Nos. 3 through 8.
3. The parties dispute whether Claimant is entitled to temporary disability benefits beginning on June 6, 2022 and continuing thereafter *as a matter of law*. In *Martin I*, the Commissioner held that Claimant may be entitled to temporary disability benefits but that the record on summary judgment was insufficient to support such a conclusion as a matter of law. *See Martin I*, at Conclusion of Law No. 13.
4. Specifically, in *Martin I*, the Commissioner concluded that information concerning Defendant’s notification to Claimant about any work search requirement, as well as information concerning Claimant’s work search efforts following his separation from Darn Tough, might be relevant to whether he was entitled to temporary disability benefits from June 6, 2022 onward. As the record on summary judgment did not

¹ Claimant fractured his left thumb at work on July 28, 2021. *Martin I*, at Finding of Fact No. 2.

² The medical provider did not take Claimant out of work. Her new restrictions were no lifting of more than ten pounds with the left hand and no repetitive pinching or gripping with the left hand. Claimant’s right hand was unrestricted. *Martin I*, Finding of Fact No. 7.

include any such undisputed material facts, the Commissioner denied the summary judgment motion. Claimant's motion for reconsideration followed.

DISCUSSION:

Timeliness of the Motion for Reconsideration

1. The Department denied Claimant's summary judgment motion on March 22, 2023 and sent copies of the ruling to the parties on March 23. On April 3, the Department held a status conference and set an April 21 deadline for any motions for reconsideration. Claimant filed the instant motion on April 21, which was 29 days after the Department's ruling was sent to the parties.
2. V.R.Civ.P. 59(e) provides that a party may file a motion "to alter or amend a judgment" within 28 days after entry of the judgment.³ Defendant contends that the instant motion is untimely under that Rule. However, Rule 59(e) does not apply to the circumstances of the instant motion, as the Department did not issue a judgment here. Rather, the Department declined to issue judgment in Claimant's favor. Accordingly, there is no judgment here to alter or amend.
3. I therefore conclude that the April 21, 2023 deadline set by the Department for reconsideration motions is the controlling deadline and that Claimant's request for reconsideration is timely.

Review of the Motion

4. A motion to reconsider should not be granted solely to relitigate an issue already decided. *Gadwah v. Ethan Allen*, Opinion No. 33R-11WC (November 28, 2011), citing *Shrader v. CSX Transportation, Inc.*, 70 F.3d 255, 257 (2d Cir. 1995) ("The standard for granting such a motion is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.")
5. In *Martin I*, the Department analyzed Claimant's temporary disability claim under *Andrew v. Johnson Controls*, Opinion No. 03-93WC (June 13, 1993) because Claimant's employment with Defendant was terminated for reasons unrelated to his work injury. In his motion for reconsideration, Claimant contends that *Andrew* does not apply because he lost his subsequent employment at Darn Tough when his new employer could not accommodate his work restrictions. Accordingly, he contends that he is entitled to temporary disability benefits following his separation from Darn Tough *as a matter of law*.
6. Having reviewed Claimant's motion for reconsideration, I find that the motion essentially seeks to relitigate the issue that the Department already decided in the

³ The date of entry of judgment is the date of mailing. See *Peabody v. Home Ins. Co.*, 170 Vt. 635 (2000).

Martin I ruling. It does not present a controlling decision, nor any data that the Department overlooked when it denied Claimant's summary judgment motion. Accordingly, Claimant has not met the standard for granting a motion for reconsideration.

ORDER:

Claimant's motion for reconsideration is **DENIED**.

DATED at Montpelier, Vermont this 13th day of June 2023.

Michael A. Harrington
Commissioner