

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CESARINA PROMUTICO THORSSON and DEPARTMENT OF STATE,
EMBASSY OF THE UNITED STATES, Rome, Italy

*Docket No. 00-1032; Submitted on the Record;
Issued April 25, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that she sustained stenotic tenosynovitis of the right thumb, requiring surgical release on July 14, 1997, in the performance of duty.

On November 21, 1996 appellant, then a 52-year-old consular assistant, filed a traumatic injury claim alleging that she sustained a right "trigger thumb" due to using a grommeter and eyehole punch in July 1996.¹ In support of her claim, appellant submitted an October 31, 1996 report from Dr. Gabriel Buntin, an attending physician, who diagnosed a "trigger thumb on the right," and prescribed medication and anti-inflammatory injections.

By decision dated October 22, 1997, the Office denied appellant's claim on the grounds that causal relationship was not established. The Office accepted that the work factors occurred at the time, place and in the manner alleged. However, the Office found that appellant submitted insufficient medical evidence to establish that the claimed right thumb condition was causally related to the accepted work factors. The Office advised appellant to submit an occupational disease claim, as the evidence established that the work factors alleged to have caused the claimed right thumb condition occurred over more than one work shift.

On October 22, 1997 appellant filed an occupational disease claim alleging that she sustained a right trigger thumb and tendinitis due to using hole punches and fasteners in the performance of duty beginning in April 1974.

¹ Appellant's supervisor, Jill F. Byrnes, corroborated that appellant used a grommeter and eyehole punch on Tuesdays and Thursdays in preparing documents for signature. In July 30 and August 28, 1997 letters, the Office of Workers' Compensation Programs advised appellant of the additional medical and factual evidence needed to establish her claim. The Office noted that appellant needed to provide a detailed description of the work factors alleged to have caused the right thumb condition, as well as a rationalized report from her attending physician explaining how and why those work factors would cause the claimed condition.

In a December 16, 1997 letter, appellant requested a review of the written record. Appellant noted that she did not receive the Office's October 22, 1997 decision until November 25, 1997 due to delays in transatlantic mail.

By decision dated January 30, 1998, the Office denied appellant's request for a review of the written record as untimely. The Office exercised its discretion, and found that appellant could advance her case equally well by submitting new, relevant evidence with a request for reconsideration.

In a February 26, 1998 letter, appellant requested reconsideration. Appellant asserted that she sustained a right trigger thumb due to long-term use of "the Embassy Seal and eyehole punch during [her] regular duty in the Notarial Services Unit." She submitted additional evidence.

An October 14, 1996 x-ray report noted no osseous alteration in either hand. A June 27, 1997 nerve conduction velocity study was within normal limits. A July 14, 1997 surgical report diagnosed "stenotic tenosynovitis of the right thumb." In an October 23, 1997 letter, appellant attributed her right thumb condition to using a "grommeter" in July 1996 to assemble documents for signature. In a December 12, 1997 letter, appellant submitted a list of medical expenses. She also submitted copies of medical bills.

By decision dated March 23, 1998, the Office denied reconsideration on the grounds that the evidence submitted was "immaterial." The Office noted that the critical issue in the case was causal relationship, and any relevant evidence would consist of rationalized medical opinion evidence discussing how and why the implicated factors of appellant's federal employment would cause the claimed right thumb condition. The Office therefore found that appellant's letters as well as medical bills were not relevant evidence. The Office noted that the July 14, 1997 surgical report and x-ray report were "devoid of any occupational history and any medical opinion relating a medical condition to an occupational history as its cause."

Appellant requested reconsideration and submitted a 1998 note by Dr. Francesco Catalano, an orthopedic surgeon of professorial rank specializing in surgery of the hand, who stated that appellant underwent "surgery on her right thumb for stenotic tenosynovitis of the flexor pollicis longus. This condition is the result of continuous work-related trauma over the past 24 years."

By decision dated December 29, 1998, the Office denied modification of its October 22, 1997 decision on the grounds that appellant had submitted insufficient evidence. The Office found that Dr. Catalano did "not discuss the type of work-related trauma that supposedly caused the thumb injury," and did not provide "medical reasoning to support his opinion" regarding causal relationship.

The Board finds that appellant has not established that she sustained stenotic tenosynovitis of the right thumb, requiring surgical release on July 14, 1997, in the performance of duty.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease to condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.²

In this case, appellant submitted medical evidence in support of her claim from Dr. Buntin, an attending physician, and Dr. Catalano, an attending hand surgeon. Neither physician mentioned specific work factors in their reports, such as using the hole punches and notarial seal. Therefore, these physicians could not provide the required medical rationale explaining how and why the accepted work factors would cause the diagnosed right thumb condition. Without such rationale, their reports are of little probative value and are insufficient to establish appellant's claim.³

Appellant also submitted medical bills, list of medical expenses, and several letters in which she explained her belief that her right thumb condition was work related. However, these documents do not constitute medical evidence, and are therefore of no probative value in establishing the critical issue of causal relationship in this case.

Consequently, appellant has failed to establish that she sustained stenotic tenosynovitis of the right thumb in the performance of duty.

² *Charles E. Burke*, 47 ECAB 185 (1995).

³ *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

The decision of the Office of Workers' Compensation Programs dated December 29, 1998 is hereby affirmed.

Dated, Washington, DC
April 25, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member