

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SUSAN C. DUBOIS and U.S. POSTAL SERVICE,
BULK MAIL CENTER EAST, Springfield, MA

*Docket No. 00-265; Submitted on the Record;
Issued January 3, 2001*

DECISION and ORDER

Before DAVID S. GERSON, PRISCILLA ANNE SCHWAB,
VALERIE D. EVANS-HARRELL

The issue is whether appellant sustained a recurrence of disability from March 15 to 20, 1998 causally related to accepted left thumb tendinitis.

On July 17, 1996 appellant, then a 44-year-old small bundle sorter operator, filed a notice of occupational disease alleging that the tendinitis in her left wrist was caused by handling bundled mail.¹

In an August 15, 1996 report, Dr. James Schumacher, an attending Board-certified internist and rheumatologist, diagnosed tendinitis of the left thumb with a June 1996 onset and light duty "on and off ... since then." He reinjected the tendon sheath and prescribed light duty until September 12, 1996 with no repetitive work or heavy lifting using the left hand.

In a September 5, 1996 report, Dr. Schumacher opined that appellant's tendinitis was "occupationally related" and that "light duty should be continued indefinitely."² He submitted monthly reports finding continued extensor tendinitis of the left thumb and relating it to her postal employment. In a November 6, 1996 report, Dr. Schumacher noted that appellant's "pain over the extensor tendon of the left thumb," unresolved by corticosteroid injections, was "caused by repetitive use of her left hand pushing and pulling at work...." He allowed appellant a monitored trial of keying for two hours a day while on light duty.³

¹ In a June 17, 1996 note, Dr. Richard H. Brody, an occupational health physician at the employing establishment, prescribed "very limited use left hand." He submitted periodic notes through September 9, 1996 recommending little or no use of the left hand.

² Dr. Schumacher first prescribed restrictions of limiting use of the left arm and hand to four hours per day, with no repetitive work with the left hand, for the period August 27 to September 7, 1996. He renewed these restrictions consistently in periodic treatment reports through April 7, 1998.

³ Dr. Schumacher held appellant off work from May 12 to 21, June 17 to July 1, July 15 to 29, August 13 to 24,

By decision dated March 11, 1998, the Office of Workers' Compensation Programs vacated an October 1, 1996 decision denying appellant's claim,⁴ and accepted "tendinitis of the left thumb." The Office noted that Dr. Schumacher's reports contained a definitive diagnosis and sufficient rationale supporting causal relationship.⁵

On June 19, 1998 appellant filed a claim for a recurrence of disability from March 15 to 20, 1998.⁶

In a March 17, 1998 report, Dr. Schumacher noted "tenderness over the extensor tendon of the thumb" from the base of the metacarpal "approximately up over the radius." He diagnosed "[e]xtensor tendonitis of the thumb," administered a local corticosteroid injection and prescribed medication. Dr. Schumacher noted that appellant should pick up her prescription on Friday, March 20, 1998 before she left for a prescheduled vacation on Sunday, March 22, 1998. In a March 17, 1998 slip, he held appellant off work from March 15 to 17, 1998 with a return to light duty on March 18, 1998, with no more than 4 hours use of the left arm and no lifting more than 10 pounds. Dr. Schumacher checked a box indicating that the condition was work related.⁷

In a June 25, 1998 letter, Sheryl A. Bartolomei, appellant's supervisor, asserted that appellant was never required to work outside her medical restrictions. Ms. Bartolomei described appellant's duties as keying and sweeping in 15- to 30-minute rotations, with keying "no more than 3 and ½ hours per day."⁸

By decision dated September 21, 1998, the Office denied appellant's claim for recurrence of disability on the grounds that causal relationship was not established between the claimed recurrence of disability and the June 17, 1996 employment injury.

1997, February 22 to 29 and April 5 to 7, 1998.

⁴ By decision dated October 1, 1996, the Office denied the claim on the grounds that fact of injury was not established due to insufficient medical evidence. Appellant disagreed with this decision, on September 24, 1997 requested reconsideration and submitted additional reports from Dr. Schumacher.

⁵ The Office listed concurrent, nonoccupational conditions of left carpal tunnel syndrome, and a left shoulder injury.

⁶ The employing establishment checked a box indicating that light duty was provided, commenting "How can a thumb totally disable someone?" Appellant returned to work on March 31, 1998. In a July 1, 1998 letter, the Office advised appellant of type of medical and factual evidence needed to establish her claim for recurrence of disability.

⁷ Dr. Schumacher submitted periodic reports from January 9 to November 24, 1997 describing appellant's continued left thumb symptoms with no improvement despite corticosteroid injections and prescribed light duty for an indefinite period.

⁸ In an undated statement received by the Office on August 5, 1998, appellant alleged that the employing establishment left her "on [her] regular job" keying and sweeping, "saying it was within [her] limitations." Appellant asserted that her left thumb symptoms were unchanged since their onset in 1996.

Appellant requested an oral hearing, held April 20, 1999. At the hearing, she asserted that she was not offered light duty and remained working as a small parcel bundle sorter without accommodations. She recalled that, on March 10 and 11, 1998, her thumb was sore, but that her symptoms worsened and on March 12, 1998, she informed her supervisor that the pain had become unbearable. She asserted that she had been assigned that day to process bundles of magazines instead of letters. Appellant's scheduled days off were March 13 and 14, 1998 during which time she used ice in an attempt to lessen her symptoms. On March 15, 1998 she experienced swelling of her hand and called Dr. Schumacher for an appointment. The earliest available appointment was March 17, 1998, when she saw Dr. Schumacher and received an injection. Following the injection, appellant stated that the pain was greatly increased and that she could not return to work. Appellant then took a prescheduled vacation beginning March 22, 1998.

Following the hearing, appellant submitted additional medical evidence.

In a November 30, 1998 letter, Dr. Schumacher noted examining appellant on March 15, 1997 for left thumb pain "in the same area with the same symptoms that had occurred in the past," and administering a local corticosteroid injection. He stated that there was "no reason to believe that this particular symptoms and signs at that point were any different or of any different causation than her previous symptoms in that area. They appeared quite consistent with the natural history of tendonitis (sic) of the thumb which is that it can certainly recur even in spite of decreasing use of the thumb. It also would be apparent that since [appellant] uses her hands at work that the tendinitis was due to a work-related injury that [occ]urred in 1996."

Dr. Schumacher stated that, on March 17, 1998, appellant stated that "she had been out of work because of pain on the March 15 and 16, 1998." He gave appellant a "note indicating that she be excused from work [on the] 15th, 16th and 17th with a return date of March 18, 1998. In retrospect it was probably an overly optimistic date for return to work since patients, after local corticosteroid injection frequently do have exacerbation of the pain, making work impossible a day or two after their shot." Dr. Schumacher stated that it was "an appropriate amount of time" for appellant to have been off work through March 20, 1998 "for this particular injury and level of symptoms."⁹

In a March 24, 1999 report, Dr. Schumacher noted that, on March 17, 1998, the quality and location of appellant's left thumb pain "and the area of tenderness noted on examination [were] exactly the same as previously outlined in previous clinical visits." He therefore opined that it "was an exacerbation of her previous injury dated back to June 1996." Dr. Schumacher explained that the "magnitude of the pain, its exacerbation with movement of the thumb and lack of prompt improvement with [the March 17, 1998] local injection are the reasons [appellant] was unable to work March 15 to 20, 1998. Due to the pain she had little or no useful use of that hand for that period of time."

⁹ In a December 10, 1998 report, Dr. Schumacher noted "tenderness over the extensor tendon of the thumb again, similar to before." Dr. Schumacher stated an impression of "[c]ontinu[ing] symptomatic with tendinitis of the thumb due to her work-related injury."

In a May 18, 1999 letter, appellant asserted that, although she was medically restricted from using her left arm for more than four hours, her duties required her to use her left arm for eight hours.¹⁰

By decision dated and finalized July 8, 1999, the Office hearing representative found that appellant had not established that she was totally disabled for work on and after March 15, 1998, but modified the Office's September 21, 1998 decision "to allow for continued medical treatment for the accepted condition."

The Board finds that appellant has established that she sustained a recurrence of disability from March 15 to 20, 1998, causally related to her accepted work injury.

When an employee who is disabled from the job she held when injured because of employment-related residuals returns to a light-duty position, or the medical evidence of record establishes that she can perform the light-duty job, the employee has the burden of establishing by the weight of the reliable, probative and substantial evidence a recurrence of total disability that prevents him or her from performing such light duty.¹¹ As part of this burden, the employee must show a material change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.¹² Thus, the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition¹³ and supports that conclusion with sound medical reasoning.¹⁴

On appeal, appellant contends that the employing establishment did not provide her with light-duty work. However, the Board finds that appellant was provided light-duty work within her restrictions following the onset of tendinitis of the left thumb extensor in June 1996. In periodic notes from June 17 to September 9, 1996, Dr. Richard H. Brody, an occupational health physician at the employing establishment, prescribed very limited or no use of the left hand. Dr. Schumacher prescribed light-duty restrictions continuously from August 1996 through April 1998 limiting use of the left hand to four hours per day, with no repetitive work with the left hand and no lifting more than 10 pounds. In the June 19, 1998 claim form, the employing establishment asserted that limited duty was provided following appellant's return to work after the initial injury. In a June 25, 1998 letter, Sheryl Bartolomei, appellant's supervisor, provided a schedule of appellant's duties showing 15- to 30-minute rotations of keying and sweeping over an 8-hour shift, with no more than 3 ½ hours of keying per day. Although the record contains no

¹⁰ In a May 18, 1999 letter, Charles Assad, one of appellant's coworkers who also operated a small parcel bundle sorter machine, generally corroborated appellant's account of events.

¹¹ *Richard E. Konnen*, 47 ECAB 388 (1996).

¹² *Mary A. Howard*, 45 ECAB 646 (1994), quoting *Terry R. Hedman*, 38 ECAB 222 (1986).

¹³ *Kevin J. McGrath*, 42 ECAB 109 (1990).

¹⁴ *Lourdes Davila*, 45 ECAB 139 (1993).

formal written offer of limited duty, the Board finds that appellant was working within her medical restrictions in a light-duty capacity.

The Board also finds that appellant has met her burden of proof in establishing that her condition during the claimed recurrence of disability from March 15 to 20, 1998 was causally related to tendinitis of the left thumb which began in June 1996.

Dr. Schumacher submitted numerous reports from August 15, 1996 through March 24, 1999 consistently opining that appellant's continuing tendinitis was related to duties. The clarity and consistency of Dr. Schumacher's reports prompted the Office hearing representative to find that appellant's left thumb extensor tendinitis had not resolved, and allowed "continued medical treatment for the accepted condition.

In his March 17, 1998 report, Dr. Schumacher held appellant off work from March 15 to 18, 1998 due to the accepted extensor tendinitis of the left thumb, and administered a corticosteroid injection. In a November 30, 1998 letter, he explained that appellant's presentation on March 17, 1998 was the same as it had been since June 1996 and that there was "no reason to believe that the particular symptoms and signs at that point were any different or of any different causation" than previously. Dr. Schumacher added that the March 17, 1998 corticosteroid injection had caused an "exacerbation of the pain, making work impossible a day or two" after the injection. He opined that it was "appropriate" for appellant to have remained off work through March 20, 1998 "for this particular injury and level of symptoms." Dr. Schumacher elaborated in a March 24, 1999 report that the "magnitude of the pain, its exacerbation with movement of the thumb and lack of prompt involvement with local injection" caused disability for work from March 15 to 20, 1998 as appellant had little "use of that hand for that period of time."

The Board finds that Dr. Schumacher's reports are sufficiently rationalized to meet appellant's burden of establishing a material worsening of her condition on March 15, 1997 and its causal relationship to the accepted tendinitis. The Board notes that there is no medical evidence of record controverting Dr. Schumacher's opinion.

Thus, appellant has established her claim. Therefore, the case must be returned to the Office for appropriate development regarding the type and amount of compensation benefits due to appellant, the prompt payment of those benefits to appellant, and the issuance of an appropriate decision accepting appellant's claim for recurrence of disability from March 15 to 20, 1998.

The decision of the Office of Workers' Compensation Programs dated and finalized July 8, 1999 is hereby reversed.

Dated, Washington, DC
January 3, 2001

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member

Valerie D. Evans-Harrell
Alternate Member