

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENNIS G. CLARK and DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, YELLOWSTONE NATIONAL PARK, WY

*Docket No. 97-2211; Submitted on the Record;
Issued November 16, 1999*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained the condition of de Quervain's disease causally related to his January 6, 1994 employment injury.

On January 6, 1994 appellant, then a 43-year-old carpenter, sustained a severe laceration of the left hand and fingers and an infected fingertip in the performance of duty.

On November 29, 1995 appellant filed a notice of recurrence of disability alleging that he sustained a recurrence of disability on November 4, 1995 which he attributed to his January 6, 1994 employment injury.

In notes dated June 21, 1994, Dr. Curtis R. Settergren, a Board-certified orthopedic surgeon, related that appellant had undergone surgery for repair of his left hand six months previously and was able to perform most of the work that he had performed prior to surgery. Dr. Settergren provided findings on examination and stated that appellant had not yet reached maximum medical improvement but he did not see any need to limit his use of his left hand.

In notes dated September 13, 1994, Dr. Settergren related that appellant had reached maximum medical improvement and that his present limitations of motion were considered to be permanent. He noted that appellant had not achieved a full grip but felt that his left hand was doing quite well.

In reports dated November 29 and December 6, 1995, Dr. Settergren related that appellant had an amputation of his left index fingertip two years previously and now had an infected left index fingertip. He stated that he performed a surgical procedure on that date consisting of debridement of the fingertip and removal of an old nail remnant and another procedure consisting of a de Quervain's release in the left hand.

By decision dated January 17, 1996, the Office denied appellant's claim for a recurrence of disability on the grounds that the medical evidence of record failed to establish that

appellant's claimed recurrence of disability was causally related to his January 6, 1994 employment injury.

By letter dated October 18, 1996, appellant requested reconsideration of the denial of his claim and submitted additional evidence.

In a letter dated January 23, 1996, Dr. Settergren stated that appellant's nail remnant infection was directly related to his amputation and was directly a result of his employment injury. He stated:

“Also he had de Quervain's stenosing tenosynovitis which is perhaps more of an occupational disease than a direct result of that injury, but may potentially have been caused by the injury because of the different way in which he has to use his hand to compensate for some of his limitations due to some loss of finger dexterity.”

By decision dated December 11, 1996, the Office modified its January 17, 1996 decision to accept the condition of an infected fingertip and subsequent surgery as job related. However, the Office stated that the condition of de Quervain's and surgery performed for this condition was not accepted.¹

The Board finds that appellant has failed to meet his burden of proof to establish that he sustained the condition of de Quervain's disease causally related to his January 6, 1994 employment injury.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.² Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that he sustained an injury in the performance of duty and that his disability was caused or aggravated by his employment.³ As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.⁴ The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁵ Neither the fact that the condition became apparent

¹ Subsequent to the issuance of the Office's December 11, 1996 decision, appellant submitted new evidence. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

² *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

³ *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

⁴ *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁵ *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.⁶

In this case, on January 6, 1994 appellant sustained an injury to his left hand and fingers and subsequently an infected fingertip in the performance of duty. On November 29, 1995 he filed a claim alleging a recurrence of disability on November 4, 1995 which he attributed to his January 6, 1994 employment injury. The Office denied his recurrence of disability claim by decision dated January 17, 1996 but, in its December 11, 1996 decision, accepted the infected fingertip condition in November 1995 as causally related to the 1994 employment injury. However, the Office denied appellant's claim for de Quervain's disease in its December 11, 1996 decision. Thus, the question on appeal is whether the condition of de Quervain's disease is causally related to the 1994 employment injury.

In reports dated November 29 and December 6, 1995, Dr. Settergren, appellant's attending Board-certified orthopedic surgeon, related that appellant had an amputation of his left index fingertip two years previously and now had an infected left index fingertip. Dr. Settergren stated that he performed a surgical procedure on that date consisting of debridement of the fingertip and removal of an old nail remnant and another procedure consisting of a de Quervain's release in the left hand. However, he did not provide an opinion as to the cause of the de Quervain's condition and therefore this report is not sufficient to establish that appellant sustained this condition as a result of his 1994 employment injury or due to factors of his employment.

In a letter dated January 23, 1996, Dr. Settergren stated that appellant's fingertip and nail remnant infection was directly related to his amputation and was directly a result of his employment injury. He stated:

“Also he had de Quervain's stenosing tenosynovitis which is perhaps more of an occupational disease than a direct result of that injury, but may potentially have been caused by the injury because of the different way in which he has to use his hand to compensate for some of his limitations due to some loss of finger dexterity.”

However, Dr. Settergren provided insufficient medical rationale explaining how the de Quervain's condition was causally related to the 1994 employment injury. In fact, his opinion as to causal relationship was only speculative in that he indicated that the condition “may” have been caused by the 1994 employment injury. He also indicated that the condition could have been an occupational injury but, again, his opinion on causal relationship was expressed in speculative terms and he did not provide sufficient medical rationale for his opinion as to causal relationship. Therefore, this report is not sufficient to discharge appellant's burden of proof.

⁶ *Joseph T. Gulla, supra* note 4.

The decision of the Office of Workers' Compensation Programs dated December 11, 1996 is affirmed.

Dated, Washington, D.C.
November 16, 1999

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member