

# ONA WINS



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## MEMBER'S CLEVER TESTIMONY BOLSTERS WSIAT APPEAL

### Hospital

Along with ONA's compelling arguments, a member's use of props to show the Workplace Safety and Insurance Appeal Tribunal (WSIAT) how her thumb, injured at work, is utilized in the various aspects of her duties was instrumental in the panel's favourable decision.

On September 9, 2011, this member, who had just started her career as an RN, injured her thumb on her dominate right hand during a particularly heavy overnight shift on the telemetry unit. She reported the injury to her charge nurse and went home, hoping the pain would go away with some rest.

She returned to work the next day for her night shift, but after a few hours, her thumb was swollen and she was again in pain. Her coworkers convinced her to go to the emergency department, where she was referred to a hand and nerve surgeon. The surgeon diagnosed the member with a chronic strain/partial tear of the right thumb ulnar collateral ligament. She filled out an Employee Incident report and returned to modified duties at work.

The WSIB denied the claim, determining there was no specific accident and, based on her duties, the ligament injury could not be established to have arisen out of or in the course of employment. The employer advised the member she could no longer be accommodated and put her off work.

While the member had ligament repair surgeries in 2012 and again a year later, ONA appealed the decision at the Operations and Appeals level with no success. In 2015, we proceeded to the WSIAT.

During the WSIAT hearing in February 2018, the member testified that prior to September 9, 2011, she had felt pain in her wrist area, which radiated into her hand and thumb, but she never sought medical attention and was able to perform her work duties, which she described in detail. The WSIAT Panel allowed her to use props, including a set of hospital sheets, the pull sheet, an IV bag and a disposable syringe, to demonstrate how patient beds were made, the process of moving patients in their beds, and the steps required to reconstitute medications, all of which involved motions that place stress on the ligaments in her thumb.

In its decision, the WSIAT Panel concluded that the member's testimony clarified two central issues in this claim, which could not be determined by written record alone: her work duties and the pre-existing condition. The panel found the member to be a straightforward witness and relied on her testimony, allowing initial entitlement to the right thumb injury sustained at work.

The nature and duration of benefits flowing from the decision to allow initial entitlement has been returned to operations for further adjudication.

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