

ONA WINS



SUMMARY OF ANOTHER SUCCESS AS YOUR UNION STRIVES TO IMPROVE YOUR WORKING CONDITIONS

ONA successfully argues for member under WSIB's new Recurrence Policy

Hospital

(February 16, 2017)

In March 2011, a full-time RN tripped on a cord at work, hit the wall with her shoulder and landed on her knee. She suffered a fracture of the shoulder as a result.

She was off work for two days, then returned in a modified capacity, wearing an immobilizing brace. She was cleared to return to regular duties approximately two months later when an X-ray showed the fracture had healed completely.

In July 2011, while hanging clothes at home, she experienced another onset of shoulder pain described as a “popping” sensation. She saw her orthopedic surgeon who suspected she had developed supraspinatus and tendinosis as a result of the initial fracture. She continued to have shoulder pain and limitation and underwent an MRI in August, which confirmed the tendinosis diagnosis and also revealed subacromial impingement. In September 2011, the worker underwent surgery.

The WSIB denied ongoing entitlement on the grounds that she had a pre-existing degenerative condition (presumably the “post-traumatic” osteoarthritis identified by the MRI), which would have progressed on its own regardless of the work-related injury.

ONA appealed the decision and the case was heard by way of a hearing in writing in December 2016. We argued the WSIB did not properly consider the medical evidence – which we showed was overwhelmingly supportive of ongoing entitlement – or apply Board policy correctly.

The Appeals Resolution Officer (ARO) allowed the case under Recurrence Policy in which, if a significant deterioration “occurs when there is no new incident/exposure” or results from an “insignificant new incident/exposure (work-related or not), a recurrence is considered.” There must be “clinical compatibility” between the significant deterioration and the original injury.

In this case, ONA provided additional evidence and argument that supported the “clinical compatibility” of the initial injury in March, the insignificant incident at home in July, the ongoing shoulder symptoms with the findings of the MRI in August, and the necessity for surgery in September.

The ARO awarded full Loss of Earnings benefits from September 28, 2011 to January 9, 2012 and health-care benefits/expenses for the surgery.

Importance to ONA: This decision is useful for dealing with the new Recurrence Policy, as it is short and to the point and illustrates what evidence we have to obtain in future similar cases.

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