



## Trigger Finger, Multiple Digits – Different Dates of Onset, But Causally Related to Repetitive Gripping and Squeezing – A Path Forward for Members with Hand Injuries

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In my June 2020 article – *Understanding The Causes of Trigger Finger & Trigger Thumb and the Role of Repetitive Gripping, Squeezing & Pulling Plays In Developing This Injury*, I explained how this hand injury is work related in most instances. However, there are many members who develop multiple triggering digits that emerge over time, and for those members who move around and work for different employers, or may be unemployed between jobs when a trigger digit is diagnosed, adjudicative controversy arises.

Every WSIB claim must have a worker, employer, work injury and a medically compatible diagnosis that the injury arose out of and in the course of employment.

This month's article explores how LU 353 has tackled complex trigger finger claims where members have multiple trigger digits that emerge at different times, which is complicated because they worked for other employers, or were unemployed when a trigger digit was diagnosed.

In gradual onset claims, like trigger finger, the Board uses the date of first medical as the date of accident. Accident employers object to these claims because no injury was reported to them by the worker, who may no longer work for the contractor. Now we're in the realm of proof of accident.

This scenario is more common as I discovered in a complex trigger finger case when a member presented with 10 trigger digits that emerged on different dates based on the date of first medical, plus different employers over time or was between jobs (unemployed) when a trigger digit was diagnosed.

In one legal submission, the union noted the worker attributed the onset of his musculoskeletal hand symptoms to a 30-year history of repetitive gripping and squeezing when using manual and power tools and pulling wire. In essence, this is a gradual onset cumulative trauma disorder (CTD), and a disablement under section 2(1) of the *Workplace Safety and Insurance Act*.

An Appeals Resolution Officer allowed one digit, but when the union requested the WSIB extend entitlement to the other digits, based on medical compatibility, the Board denied the members multiple trigger digits on the basis they pre-date the Date of Accident in the claim that was submitted and could not be adjudicated under this claim. Some trigger digits were diagnosed when the member was unemployed. This led to inquiries whether multiple claims had to be submitted, as suggested by the WSIB Policy Branch. The union took the position the pathogenesis of the workers left and right-hand triggering digits is causally related to the endemic physical demands associated with performing an electrician's job for 30 years.

The union filed an appeal and cited *Decision No. 964/22*, where a Tribunal Vice Chair quoted as authority *Decision 184/18*, in which both cases that dealt with Trigger Finger. In *Decision No. 184/18*, the Vice Chair referred the workers' file to a Tribunal Medical Assessor who are well respected specialists in their area of medical speciality. Dr. Axlerod, an orthopaedic surgeon was selected. In his opinion based on his experience, as well as noting the medical literature, he postulated there is a causal nexus between repetitive gripping and squeezing and Trigger Finger:

"Having said that, there is clear evidence in the medical literature of a correlation between carpal tunnel surgery with the subsequent scarring that can occur from this surgery and the development of trigger fingers, and there is also a clear correlation between workplace duties that require forceful gripping through repetitive straining of the hand to make a forceful grip, which can cause the development of flexor tenosynovitis and with that subsequently the trigger fingers."

The Board in denying several digits in the members left and right hand also took the position the worker was not working when these digits were first documented medically, thus, there was no temporal or work-related connection to these digits.

In *Decision No. 184/18*, Dr. Axlerod was also asked to discuss the significance, if any, of a delay of approximately two years between the last work exposure to forceful gripping and the manifestation of trigger finger symptoms, in the context of what is known about the worker's medical conditions and exposures. He opined:

It is my opinion that the delay of approximately two years and the last work exposure to forceful gripping and the manifestation of symptoms of trigger finger symptoms is not unusual. In a situation where somebody has repetitive trauma to the flexor tendons, that is, with forceful gripping, carrying, lifting, and repetitive use of the digits, micro damage can occur to the flexor tendons. This is the initiation of a degenerative condition, which will worsen over time. Therefore, I do not believe that the delay of two years between the last work exposure and the development of the trigger fingers is at all significant in this Worker's case.

Dr. Axelrod was also asked if he could provide any further medical information, that would be helpful to the Vice-Chair and parties in this appeal? He stated:

**To answer this question, I would like to state the following:**

Trigger fingers, in the vast majority of patients, occurs as a result of degenerative changes within the flexor tendons that occur with aging. There is a small subset of patients that develop this condition due to



repetitive gripping in the workplace. The onset of the symptoms from the workplace gripping can be delayed for some period of time as, in my opinion, is seen in this worker

Responding to the union's inquiry, Dr. Ronald Wallman, the members hand specialist, in a report dated April 28, 2023, agreed there is a work relationship between the members whose job involves the vigorous and aggressive use of his hands as an electrician and the pathogenesis of triggering digits. Furthermore, Dr. Wallman also addressed the question of delayed onset stating:

I do agree with Dr. Axlerod's postulate there can be a delay of upwards of 2 years between the last work exposure and development of triggering fingers.

The union's argument rebutted the Board's decision to place more weight on non-compensable factors giving rise to trigger finger, and specifically, that the worker had been employed by other employers or had not been working when other trigger digits were diagnosed and treated (e.g., LD4, LD5, RD1, RD3, RD4, RD5).

Finally, the union also relied on the following authority as noted in numerous decisions of the Tribunal see *Decision No. 83/19*, a decision of Vice-Chair R. McCutcheon:

The Tribunal also applies section 64 of the *Legislation Act, 2006*, which provides that an Act shall be interpreted as being remedial and shall be given such fair, large, and liberal interpretation as best ensures the attainment of its objects. With regard to the large and liberal interpretation that applies to workers' compensation legislation, I note the findings of the Alberta Court of Appeal in *Shuchuk v. Alberta (Workers' Compensation Board)*, 2007 ABCA 213 (CanLII):

Generally, the Act is to be given a broad liberal interpretation, which allows compensation to be provided to as many workers in as many circumstances as the legislative scheme will reasonably permit. This is consistent with the purpose of the Act, which is to provide workers with a broad range of compensation, including instances when tort law would leave them without a remedy: *Buckley*, at para. 52. Absent clear legislative direction to the contrary, the workers' compensation scheme should, at a minimum, provide compensation to those situations that would result in compensation under traditional tort law. Any interpretation of the legislative and policy regime that does not give effect to this principle is unreasonable.

In a recent decision, the Board allowed the members multiple triggering digits as being causally related to the physical demands of his electrician trade. A battle that took several years, and will likely to be appealed by the employer. Which means the union will have to defend the win.



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