WCAT Decision Number: WCAT-2004-00078-RB
WCAT Decision Date: **January 09, 2004**
Panel: Lorne Newton, Vice Chair

Introduction

The worker applied to the Workers' Compensation Board (Board) for benefits for right elbow complaints which she related to her work activities as a saw blade sharpener. A Board case manager considered the worker's evidence and informed her in a letter dated January 2, 2002 that the worker's work duties do not contain the necessary occupational risk factors to cause a diagnosed right elbow epicondylitis. The case manager noted as the worker had not provided evidence of a specific incident having contributed to her right arm symptoms, her claim had been considered under section 6 of the *Workers Compensation Act* (Act) for an occupational disease. The case manager noted that for a potential work causation of lateral epicondylitis, the Board considers occupations that contain frequent, repetitive, forceful and unaccustomed movements of the wrists. The case manager concluded on the basis of a Board medical advisor's opinion and a worksite evaluation that although there was repetition and awkward postures in her work activities, those risk factors involve the shoulder joint and not the elbow and there were insufficient risk factors of an occupational nature; the worker did not meet the requirements of section 6 for an occupationally caused right lateral or medial epicondylitis.

The worker has appealed this decision and she disagrees with the conclusion of the Board officer.

Issue(s)

At issue is whether the worker developed occupationally caused right lateral and medial epicondylitis as an occupational disease and whether she meets the requirements of section 6 of the Act.

Jurisdiction

This appeal was filed with the Workers' Compensation Review Board (Review Board). On March 3, 2003, the Appeal Division and the Review Board were replaced by the Workers' Compensation Appeal Tribunal (WCAT). As this appeal had not been considered by a Review Board panel before that date, it has been decided as a WCAT appeal. (See the *Workers Compensation Amendment Act (No. 2), 2002*, section 38.)

The registration department of WCAT has determined that the worker's appeal can be dealt with through a read and review of the documentary evidence. I have reviewed the

contents of the claim file and have determined that the appeal can be fairly decided on the basis of the documentary evidence and without an oral hearing.

Background and Evidence

As documented on the claim file, the worker reported to her employer on November 14, 2001 that she developed right arm discomfort. The employer in their report of injury or occupational disease has not provided any details of the onset of symptoms. The worker recorded in her application for compensation (F6) that she developed discomfort in her arm on November 12, 2001 and verbally mentioned it to her "boss." As her discomfort persisted, she sought medical treatment at a medical clinic and then followed up with her family physician.

The clinic physician recorded in a physician's first report (F8) that the worker had presented with right elbow pain and the physician diagnosed her condition as a strain of the right elbow. The physician recorded that the worker had been operating a saw sharpening machine and noted the worker was unable to return to work for three to five days. The worker next sought medical treatment with her own attending physician on November 19, 2001 and her physician found upon examination that the worker presented with pain over the right elbow with tenderness over the right elbow and diagnosed lateral epicondylitis. The worker's own physician indicated the worker would be disabled 14 to 20 days.

The Board arranged for an activity soft tissue disorder worksite evaluation to be carried out at the worker's worksite. The evaluator who carried out the job site analysis also did a digital photo summary. The evaluation in the ergonomic intervention report as set out on the Board file described the worker's job demands, work style and work environment. The worker who works as a blade sharpener reported that her onset of symptoms came on gradually during a shift of November 12, 2001. She confirmed there were no changes in her job during the period of onset of symptoms and she was required to sharpen three different types of saw blades for industrial saws.

The ergonomist noted the following risk factors:

Repetition: The worker was observed to frequently pull down and raise a sharpening stone 1-4 cm, 126 to 144 repetitions per minute, with a neutral right posture.

Force: The ergonomist noted that there was low to minimal resistance in lowering the sharpening stone the 1-4 cm and the worker applied low additional force onto the grooved edges of the saw blade. The ergonomist noted the worker had reported she does carry a stack of blades which weighs 20-25 lbs. approximately three times during her shift. The ergonomist concluded that that activity consists of moderate force.

Awkward Postures: The ergonomist did not note any awkward postures.

Unaccustomed Activities: The ergonomist noted there were no unaccustomed activities reported.

The ergonomist concluded that while the worker developed an onset of right elbow symptoms on November 12, 2001 while working in her job as a saw blade sharpener, the only occupational risk factors were when the worker grips a handle with a right power grip that involves the right shoulder flexed between 100-110 Deg and her right elbow flexed between 50-60 Deg during the action of pulling the stone blade down between the teeth of the saw blades. The ergonomist noted the risk factors present had the potential for a work caused shoulder problem, but not a right lateral or medial epicondylitis.

A Board medical advisor provided a medical opinion as set out in the electronic file entry dated November 21, 2001. The Board medical advisor reviewed the file evidence which contained the ergonomic intervention report. The Board medical advisor noted that if the history of the worker's onset of symptoms as set out by the ergonomist was accurate, there were insufficient risk factors of an occupational nature to have caused either right lateral or right medial epicondylitis.

Reasons and Findings

Section 6 of the Act provides that compensation is payable for occupational diseases that are due to the nature of a worker's employment.

Section 1 of the Act contains the definition of an occupational disease.

Policy item #26.01 in the *Rehabilitation Services and Claims Manual, Volume 1* (RSCM) reads as follows:

> Any disease listed in the first column of Schedule B is by definition designated or recognized as an occupational disease. This is the highest level of designation or recognition.
>
> The Board lists a disease in Schedule B in connection with a described process or industry wherever it is satisfied from the expert medical and scientific advice it receives that there is a substantially greater incidence of the particular disease in a particular employment than there is in the general population. The questions to be addressed include: is the disease common in that particular employment, and not common amongst the general public? Is it something specific to the employment?...

Section 6(3) of the Act sets out the Schedule B presumption as also discussed in policy item #26.21 of the RSCM. Section 6(3) provides:

> (3) If the worker at or immediately before the date of the disablement was employed in a process or industry mentioned in the second column of Schedule B, and the disease contracted is the disease in the first column of the schedule set opposite to the description of the process, the disease is deemed to have been due to the nature of that employment unless the contrary is proved…

Occupational diseases that are not contained in Schedule B can also be recognized by regulation of general application. This is the case for epicondylitis. Policy item #26.03 in the RSCM sets out the designation of epicondylitis as a disease and the test as to whether that disease is considered an occupational disease must be determined in accordance with section 6(1) of the Act. The presumption under section 6(3) of the Act is not applicable in this case as epicondylitis is not contained in Schedule B of the Act. As a result the appeal must be considered under section 6(1) of the Act.

In this case, I find the evidence supports a conclusion that there is less than 50 percent likelihood that the worker's onset of right elbow symptoms diagnosed as both right lateral epicondylitis and right medial epicondylitis is due to the nature of her employment activities as a saw blade sharpener. The ergonomist carried out a thorough assessment of the worker's work activities and the worker has not provided any evidence that there were errors in that assessment. The ergonomist has considered all of the risk factors that would normally contribute to an occupationally caused right lateral and medial epicondylitis and finds there are insufficient risk factors. Most importantly, the worker was accustomed to her work activities and there were no awkward postures. With regards to force and repetition, the ergonomist has cited that such risk factors did exist but only as occupational risk factors that might cause a right shoulder problem but not an elbow problem.

I conclude that the worker's diagnosed conditions of both right medial and right lateral epicondylitis are not due to the nature of her employment as a saw blade sharpener. I find there is also not evidence of intrinsic causes, however, there must be evidence that there is greater than a 50 percent likelihood that there was an occupational cause which was not the case here.

I find the worker does not meet the requirements of section 6(1) of the Act for a work caused epicondylitis condition.

Conclusion

The panel denies the worker's appeal and confirms the Board officer's decision.

Lorne Newton
Vice Chair

LN/rbe

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