

Noteworthy Decision Summary

Decision: WCAT-2011-01329 **Panel:** Beatrice Anderson **Decision Date:** May 30, 2011

Section 6(1) of the Workers Compensation Act – Activity Related Soft Tissue Disorders – Carpal Tunnel Syndrome – Occupational and Non-Occupational Risk Factors – Unaccustomed Activity

The worker began working as a housekeeper in a hospital at the end of June 2009, after an eight month absence from work recovering from unrelated surgery. The worker had previously worked as a cashier, but never as a housekeeper. The worker claimed compensation for carpal tunnel syndrome (compression of the median nerve at the wrist), with onset soon after she commenced her new employment.

Carpal tunnel syndrome is adjudicated as an activity related soft tissue disorder (ASTD). The Workers' Compensation Board, operating as WorkSafeBC (Board), denied the claim. The Board relied primarily on an opinion from a Board medical advisor that none of the risk factors in a job site visit report were suggestive of conveying a significant risk for carpal tunnel syndrome, nor were the risk factors in combination considered significant enough. It was also noted that the worker had non-occupational risk factors because she was overweight, and had a pre-existing inflammatory condition.

The panel noted that there were two striking correlations between the workers' carpal tunnel syndrome and her job. The work was unfamiliar, and the symptom onset was immediate.

The panel referred to policy item #27.32 in the *Rehabilitation Services and Claims Manual, Volume II* (RSCM II) and noted the carpal tunnel syndrome is a common condition in the general population. Risk factors most closely associated with occupational cases involve high degrees of repetition associated with high force. Prolonged flexed positions of the wrist coupled with high repetition and cold temperatures, or the use of vibrating hand held tools are also associated with an increased risk for the development of carpal tunnel syndrome. The panel also referred to policy item #27.40 of the RSCM II, which discusses general risk factors for the development of an ASTD, and in particular the statement in the policy that risk factors relating to the individual may be responsible for causing or aggravating the ASTD. They may also render a worker more susceptible.

The panel noted the evidence that the worker was heavy for her height and had an inflammatory disorder, and noted the evidence from the job site visit that the worker used both hands in a manner such that risk factors of awkward posture, repetition, force, and vibration are present, although not perhaps to the degree needed to cause carpal tunnel in a worker who was accustomed to the job and unencumbered by non-occupational causes. The panel noted that the risk factor of unaccustomed work has long been recognized as important.

The panel recognized that she was not accepting the Board medical advisor's opinion about the cause of the condition and explained that she was not required to, despite the employer's submissions to the contrary. Determining the weight to be given to risk factors is a task for the adjudicator. In this case, there was a lack of discussion about the unaccustomed nature of the work, coupled with the rapid appearance of symptoms in a susceptible worker.

The worker's appeal was allowed and her bilateral carpal tunnel syndrome found to be due to the nature of her employment.

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Panel: Beatrice K. Anderson, Vice Chair

Introduction

- [1] On March 5, 2010 an officer of the Workers' Compensation Board¹ (Board), informed the worker that her bilateral carpal tunnel syndrome had not been caused by her employment as a housekeeper.
- [2] The worker appealed and on October 4, 2010 a review officer confirmed the Board's decision (see *Review Reference #R0116664*). The worker now appeals the Review Division decision.
- [3] The worker asked that the appeal be conducted by written submissions. Both the Registry and I conclude that the appeal can be fully and fairly determined in this manner. The facts are not in dispute and credibility is not an issue. The outcome of the appeal turns on the application of uncontested facts to the Board's policies on acquired soft tissue disorders.

Issue(s)

- [4] At issue is whether the worker's diagnosed bilateral carpal tunnel syndrome is due to the nature of her employment as required by section 6 of the *Workers Compensation Act* (Act).

Background and Evidence

- [5] This 42-year-old worker began working as a housekeeper for a hospital at the end of June 2009. This was the first time she had done this work, her prior work experience was as a cashier.
- [6] According to a questionnaire the worker sent in at the request of the Board, she developed symptoms on or around the 15th of July 2009 and sought medical attention first in August 2009. She had electromyography testing on September 30, 2009 which showed severe right-sided and mild left-sided carpal tunnel syndrome.
- [7] The adjudicator did a site visit on February 9, 2010, then consulted with a Board medical advisor for an opinion about the relationship between the diagnosis and the worker's job as a housekeeper at the hospital.

¹ operating as WorkSafeBC

- [8] The clinical opinion, provided on February 11, 2010, was that the employment was not the likely cause of the condition because the risk factors were not present, either singly or in combination, to the necessary degree. The medical advisor pointed out that the worker had a number of non-occupational risk factors for the development of the diagnosis. The worker was obese, had an inflammatory bowel disease and was of the gender and age associated with increased risk for carpal tunnel syndrome.
- [9] Both the adjudicator and review officer accepted this opinion and denied the claim and appeal.

Reasons and Findings

- [10] Carpal tunnel syndrome that occurs without trauma is considered by the Board to be an occupational disease. Occupational diseases are adjudicated under section 6 of the Act. In order to be compensable, an occupational disease must be due to the nature of employment.
- [11] Board policy about the adjudication of carpal tunnel syndrome is set out in item #27.32 of the *Rehabilitation Services and Claims Manual, Volume II*. It states that there are many causes of median nerve compression (carpal tunnel syndrome), and it is a common condition in the general population which often occurs without any known cause.
- [12] The risk factors most closely associated with occupational cases involve high degrees of repetition associated with a high degree of force. Prolonged flexed positions of the wrist coupled with high repetition and cold temperatures, or the use of vibrating hand held tools are also associated with an increased risk for the development of carpal tunnel syndrome. The adjudicator is advised to look at whether the condition is bilateral and the onset and timing of the development of the symptoms in both hands.
- [13] I have also considered policy set out in item #27.40 which discusses risk factors for the development of acquired soft tissue disorders (ASTD's) of which carpal tunnel syndrome is one. The policy describes and quantifies risk factors that the Board considers. The policy also describes personal factors such as age, body type, smoking history, inflammatory disorders and medical conditions that are associated with an increased risk of developing soft tissue disorders.
- [14] The worker argues that her carpal tunnel syndrome was caused by her work duties. (submission dated January 14, 2011) The employer relies upon the site visit and medical opinion to support the decisions under appeal. The employer also argues that in the absence of any contrary opinion, the one provided by the Board medical advisor must be accepted (submission dated January 28, 2011).
- [15] The decision to deny the claim was based on the absence of sufficient risk factors. The job of cleaning in a hospital is not without risk factors as the site visit illustrates.

- [16] The adjudicator said that the worker uses her hands independently or bilaterally when working and could be using them repetitively at ten or more motions a minute but there were mini breaks, and because of this, the repetition was not continuous over two hours.
- [17] The worker also uses “a variety of grips” which included pulp pinch grip and power gripping. There was a resisted wrist and forearm flexion when cleaning but the wrist stayed in mostly neutral postures. There was awkward wrist extension but it was occasional and there was no repetitive awkward wrist flexion. The forces were calculated to be occasionally medium and mostly light. The floor polisher exposed the worker to some vibration but it was not considered to be significant because exposure was “seldom or infrequent.”
- [18] The medical advisor, who reviewed the job site visit report and the adjudicator’s calculation of the risk factors pointed out that the “highest rates of carpal tunnel syndrome” were found in occupations and job tasks with intensive manual exertion such as meat packers, automobile assembly workers and poultry processors. The medical advisor considered that none of the risk factors identified in the report, repetition, force, awkward postures or vibration by themselves were “suggestive of conveying a significant risk for carpal syndrome” nor were the risk factors in combination considered to be significant enough.
- [19] There are two striking correlations between the worker’s carpal tunnel syndrome and her job. The work was unfamiliar and the symptom onset was immediate. Neither factor figured in the causal analysis.
- [20] The worker was recovering from surgery and did not work for 8 months before starting this job on June 29, 2009. She had never done this kind of work before. Within two weeks she developed numbness in her fingers, the first symptoms of carpal tunnel syndrome in her dominant right hand.
- [21] The job site visit report makes reference to the fact that the worker’s activities, “were new to her prior to the onset of symptoms” and that statement in its entirety was imported into the Board medical advisor’s opinion. However, there is no discussion in the opinion about the temporal connection between the start of the job and the rapid appearance of symptoms, or the fact that the worker had never done anything like this before.

- [22] Policy item #27.40, referred to above, discusses risk factors in the context of intensity, duration and frequency. There is a statement at the end of the policy discussion that I consider is particularly relevant in this case:

Risk factors related to the individual may be responsible for causing or aggravating the ASTD. They may also, however, render a worker more susceptible where shorter or less intense workplace exposures may cause an ASTD or activate or aggravate a pre-existing disease.

- [23] There is no evidence that the worker has a pre-existing disease. There is evidence that the worker was more vulnerable to the development of a soft tissue disorder because of personal factors. She is very heavy for her height and she has an inflammatory bowel disorder. The site visit report describes a job that uses both hands in which risk factors such as awkward posture, repetition, force and vibration are present, although not perhaps to the degree needed to cause carpal tunnel in the worker who was used to the job and unencumbered by any of the myriad of non occupational causes.

- [24] I consider that the development of carpal tunnel syndrome symptoms within two weeks of starting an unfamiliar hand-intensive job is too striking to be coincidental. The bilateral nature of the worker's symptoms does not weigh against this conclusion. The work requires the use of both hands in a similar fashion. I note that the condition is much more severe in the worker's dominant hand and the subordinate hand has a mild condition.

- [25] The risk factor of unaccustomedness has long been recognized as important when assessing the interaction between work and symptoms of a soft tissue disorder. When adjudicators interview claimants (or send them questionnaires to fill out) one of the key areas of enquiry concerns the familiarity of the work. Where the worker is used to the job, we ask if the intensity, frequency or duration of the work changed in some way before the symptoms appeared because that could mean the load was unaccustomed for the tissues, tendons and ligaments – even where the nature of the work did not change. Up to 2000, when Schedule B to the Act was overhauled, claims for a number of soft tissue disorders were presumed to be work-related where the work was repetitive and unaccustomed. The changes to Schedule B for soft tissue disorders broadened the grounds for the presumption, it did not narrow them.

- [26] In reaching this conclusion, I recognize that I am not accepting the medical advisor's opinion about the cause of the worker's condition. I am not required to, despite the employer's submission to the contrary. The decision about whether a disease or injury meets the threshold of compensability is a matter for the adjudicator, not a medical advisor. Determining the weight that is to be given to risk factors is a task that falls on the adjudicator's shoulders, not the medical advisor's. In this case, the lack of discussion about the unaccustomed nature of the work coupled with rapid appearance of symptoms in a susceptible worker leads me to reject the opinion and the conclusions which are based upon it.

Conclusion

- [27] For the reasons set out, I conclude that the bilateral carpal tunnel syndrome was due to the worker's employment as a hospital housekeeper. I vary the Review Division decision. The appeal is allowed. There are no requests for expenses and I make no order about this.

Beatrice K. Anderson
Vice Chair

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