

## Noteworthy Decision Summary

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**Decision:** WCAT-2011-02911    **Panel:** Elaine Murray    **Decision Date:** November 22, 2011

***Section 6 of the Workers Compensation Act – Activity Related Soft Tissue Disorders – Compensability – Policy Item #27.31 of the Rehabilitation Services and Claims Manual, Volume II – Bilateral Epicondylitis***

The worker was employed as a cook in a long term care facility. She experienced gradual onset of bilateral upper extremity pain which was diagnosed as bilateral lateral epicondylitis. The worker attributed the condition to her job duties. The Workers' Compensation Board, operating as WorkSafeBC (Board), denied the worker's claim.

The worker spent about 80% of her time preparing food for the 76 residents in the facility. This involved stirring/mixing, slicing, chopping, buttering/spreading, and lifting pots of water, milk jugs, juice jugs and boxes. The other 20% of the worker's time was spent "traying out" the food. This required the use of a hot cart which is pushed to various areas of the facility where the food is ladled, scooped, or poured out and given to the residents. The worker was also responsible for wiping and cleaning kitchen surfaces and equipment, and spent about three hours per week doing computer and paperwork to order supplies. The worker's family physician offered the opinion that the worker's bilateral lateral epicondylitis was due to the "repetitive, heavy work of her job."

The panel referred to policy item #27.31 of the *Rehabilitation Services and Claims Manual, Volume II*. It states that medical/scientific research on epicondylitis does not as a whole confirm a strong association with employment activities. The Board recognizes that where the worker was occupationally performing frequent, repetitive, forceful and unaccustomed movements (including forceful grip) of the wrist that are reasonably capable of stressing the inflamed tissues of the arm affected by epicondylitis, and the absence of evidence suggesting a non-occupational cause, a strong likelihood of work causation will exist. These factors are not preconditions to acceptance of a claim nor are they the only factors that may be relevant.

Lateral epicondylitis involves primarily the forearm extensors. The ASTD Reference Guide explains that for lateral epicondylitis, the risk factors are forceful, repetitive, and awkward postures involving the elbow extensors and the tissues affected when the forearm is supinated.

The panel reviewed the evidence of risk factors obtained by the Board case manager and an independent assessment obtained by the worker. The worker was exposed to force when lifting certain heavier items and she occasionally had to use awkward postures. However, this was intermittent throughout the work day. Although the work was repetitive for the right hand/forearm, it was not for the left. In the absence of sufficient risk factors for the left side, the panel could not accept that the worker's employment exposed her to any single risk factor to sufficient degree or to any combination of risk factors sufficient to conclude the work activities were of causative significance. The panel stated that while it was not necessary to determine what caused the condition, the worker's diabetes did not play a role in her decision. The appeal was denied.

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**Panel:** Elaine Murray, Vice Chair

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## Introduction

- [1] The worker, a cook in a care home, experienced a gradual onset of bilateral upper extremity pain during 2010. Her doctor diagnosed bilateral lateral epicondylitis, which the worker attributed to her job duties.
- [2] By decision dated October 26, 2010, a case manager at the Workers' Compensation Board, operating as WorkSafeBC (Board), found that the worker had neither sustained a personal injury arising out of and in the course of her employment nor developed an occupational disease due to the nature of her employment. The case manager denied the worker's claim.
- [3] The worker submitted a request for review of the case manager's decision to the Board's Review Division. In *Review Reference #R0124970*, issued on May 10, 2011, a review officer confirmed the Board's decision.
- [4] The worker, through her representative, Ms. R, now appeals the review officer's decision to the Workers' Compensation Appeal Tribunal (WCAT).
- [5] The employer is participating in this appeal, and is represented by Ms. B.
- [6] The worker, Ms. R, and Ms. B, attended an oral hearing on November 15, 2011. The employer also attended, but only to observe. The worker testified under oath.

## Preliminary Matters

- [7] I confirmed with the parties at the oral hearing that the only issue on appeal is whether the worker's bilateral lateral epicondylitis is a compensable occupational disease. The worker is not pursuing a finding that it is compensable as a personal injury.
- [8] In addition to bilateral lateral epicondylitis, the worker also complained to her case manager of bilateral shoulder pain. Neither the case manager nor the review officer adjudicated the compensability of the worker's shoulder pain. I further confirmed at the oral hearing that the matter of the worker's shoulder symptoms is not before me on this appeal.

## Issue(s)

- [9] Did the worker develop bilateral lateral epicondylitis due to the nature of her employment?

## Jurisdiction and Standard of Proof

- [10] This appeal was filed with WCAT under section 239(1) of the *Workers Compensation Act* (Act).
- [11] Under section 250(1) of the Act, WCAT may consider all questions of fact and law arising in an appeal, but is not bound by legal precedent. WCAT must make its decision on the merits and justice of the case, but in so doing, must apply a policy of the Board's board of directors that is applicable in the case. Section 254 of the Act gives WCAT exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal before it.
- [12] The standard of proof is the balance of probabilities, subject to section 250(4) of the Act. Section 250(4) states that if on an appeal respecting the compensation of a worker the evidence supporting different findings on an issue is evenly weighted, the issue must be resolved in favour of the worker.

## Background and Evidence

- [13] The now 47-year-old worker is a permanent full-time cook in a seniors' care home. She has been doing that job since 1986. She usually works 5 days a week, 7.5 hours per day, with two 30-minute breaks. She also alternates between working the early morning shift and the late morning shift.
- [14] The worker first noticed symptoms in her left elbow in February or March 2010, but she thought that her symptoms would resolve during her vacation in May 2010. After returning to work following her vacation, she began to notice right elbow symptoms. She continued to work, but her symptoms worsened. In the two weeks prior to August 19, 2010, at which time she reported her symptoms to her employer, her elbows and forearms began to spasm during the day. Even movements like holding a coffee cup and steering her vehicle caused her pain to increase. At work, she could no longer perform all of her normal work duties and she began to ask for help from her co-workers.
- [15] The worker saw her family physician, Dr. Shaw, on August 19, 2010. Dr. Shaw diagnosed bilateral lateral epicondylitis, which she attributed to the "repetitive, heavy work of her job." The worker followed Dr. Shaw's advice to take time off from work.
- [16] On October 20, 2010, a case manager visited the worksite and prepared an ASTD (activity-related soft tissue disorder) Worksite Evaluation Report. The worker explained

to the case manager that she spends about 80% of her time preparing food for the 76 residents in the facility. This involves stirring/mixing, slicing, chopping, buttering/spreading, and lifting of pots of water, milk jugs, juice jugs, and boxes, etc.

- [17] During the other 20% of the time, as the worker explained, she and another cook “tray out” the food. About 25 residents get their meals delivered to their rooms or common areas. For those residents, the cooks load the food onto a hot cart, push the cart to the various areas of the facility where the food needs to be delivered, ladle/scoop/pour the food, and give it to the residents. The worker also spends three hours per week doing computer and paperwork to order supplies, and intermittently helps out with dishwashing. She also wipes down and cleans the kitchen counters and cooking equipment as needed, and after every meal.
- [18] The employer provided job descriptions, which offered more details of the worker’s duties. During the oral hearing, the worker further expanded on what the various duties involved.
- [19] The case manager evaluated the amount of repetition, awkward postures, and forceful exertion in the worker’s job duties. There were no photographs or video clips taken. I have summarized the case manager’s observations as follows:

### *Repetition*

- [20] The worker performs a wide variety of cooking and kitchen duties. The duties require upper limb co-ordination and manual dexterity. She uses a variety of tools to prepare and serve a variety of food and beverage items. Because she is right-handed, she uses her right hand far more than her left hand, and performs right-hand gripping/grasping on a frequent if not constant basis.
- [21] The worker does not perform any task or series of tasks that require her to do the same wrist or elbow movement over and over again for more than 50% of her workday, or at a rate of ten times per minute for more than two continuous hours. She also does not perform any task or series of tasks that require her to do the same shoulder movement over and over again for more than 50% of the workday, or at a rate of two times per minute for more than two continuous hours. As indicated in the written job descriptions, the worker does not perform the same task for more than one hour at a time, and she typically changes tasks every 15 or 30 minutes.

### *Awkward Posture*

- [22] The case manager referred to the Board’s Practice Directive #C3-2<sup>1</sup>, which provides that wrist movement greater than 25 degrees of flexion from anatomic neutral or greater than 25 degrees of extension from functional neutral (that is 45 degrees from anatomic

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<sup>1</sup> Practice directives provide non-binding guidance on adjudicating matters; they are not Board policy.

neutral), greater than 10 degrees of ulnar deviation, or greater than 10 degrees of radial deviation are all considered awkward wrist postures.

- [23] He then stated that most of the worker's tasks were performed within acceptable ranges of posture. Any awkward or extreme joint movement that the worker performed occurred intermittently and on no more than an occasional basis.

### *Forceful Exertion*

- [24] The case manager observed that the worker's job duties were frequently light and infrequently moderate. The majority of items handled weighed less than 20 pounds. The worker infrequently handled weights up to 50 pounds, such as a bag of flour or box of potatoes. Forceful gripping with the right hand was not required to use a knife, spoon, spatula or ladle. Any forceful exertion of the wrist, elbow or shoulder that the worker performed occurred intermittently on no more than an occasional basis.

- [25] A Board medical advisor reviewed all of the file material and provided an opinion on October 21, 2010 that it was less than 50% likely that the worker's bilateral lateral epicondylitis was due to the nature of her work. He explained that epicondylitis is a common condition as one ages and the role of activity is controversial. He noted that medical and occupational literature does not confirm a strong association between epicondylitis and employment activities, but activities that expose the elbow to forceful and repetitive work may be associated in some cases. He was aware that the worker was taking insulin for diabetes, and noted it as a non-occupational factor. The medical advisor then offered the following analysis of occupational risk factors in the worker's employment:

...I find I am in agreement with the Board officer's risk factor analysis. It does suggest there is a wide variety of tasks done with a wide variety of tools used, many tasks not necessarily recruiting elbow lateral epicondyles, and although some tasks, such as chopping, may require repetitive elbow movement, with the wide variety, this does not appear to be a frequent, continuous or sufficient duration for any one or other task to meet the definitions of repetition. The worker did report reaching, but as noted by the Board officer, any awkward joint movement would be intermittent and no more than occasional. In a similar manner, the exposure to force beyond a sedentary to lightweight category would be on an infrequent basis, handling bags or flour or boxes or potatoes, which are not done more than a few times a day. Forceful power gripping is not required to use cooking utensils, and generally lifting even a heavy or large box requires use of the flexor muscles rather than the extensor tendons of the elbow. There is intermittent exposure to cold to access items to and from the fridge, but no exposure to vibration, contact pressure, or to unaccustomed duties. I find I am in agreement with the Board officer. I, too, understood there to be insufficient repetitive

movement of the upper limb joints, insufficient movement into awkward postures, and only intermittent or infrequent handling of weight beyond a medium category.

- [26] The case manager denied the worker's claim, and the review officer confirmed that decision. The review officer concluded that the case manager's worksite evaluation represented a reasonable portrayal of the worker's general work duties, and she was satisfied that the Board medical advisor's opinion on causation should be relied upon.
- [27] For her appeal to WCAT, the worker provided a July 13, 2011 workplace risk factor analysis completed by Ms. Taylor, who has a Bachelor of Science degree in Physical Therapy, a Master's of Science degree in Exercise Physiology, and is a registered physical therapist with the College of Physiotherapists of British Columbia. She is also a certified work capacity evaluator. Ms. Taylor met with the worker and the employer's human resources administrator at the worksite. The worker then demonstrated her work duties by simulating what took place on a daily basis. I have summarized Ms. Taylor's report below.

### *Repetition*

- [28] Ms. Taylor referred to the Board's *ASTD Reference Guide (Guide)*<sup>2</sup>, which states that repetitive wrist/forearm movement is defined as ten or more movements per minute with the total exposure to repetitive activities being greater than 25% to 33% of the total workday. She described how 80% of the worker's workday is spent preparing and serving food to 80 residents. As each meal is prepared in large quantities, each task (for example, peeling potatoes for 30 minutes and chopping vegetables for an hour) requires a specific movement for a prolonged period of time, and involves continuous gripping of a utensil (and possibly the food item). Although the worker performed a variety of different tasks, Ms. Taylor was of the view that the tasks required similar motions of the upper extremity, which utilized the same muscle groups. She considered this work to be highly repetitive with a lack of variability in muscle actions.

### *Awkward Posture*

- [29] Ms. Taylor again referenced the Guide to say that postures to watch for included sustained flexion or extension of the wrist and sustained ulnar deviation of the wrist. She noted that in particular, the Guide points out that the key risk factor for lateral epicondylitis is forceful gripping in conjunction with wrist extension and/or forearm supination/pronation (rotary movements). As well, the Guide provides that if more than 25 to 33% of a worker's shift is spent in awkward posture, there is an increased risk of injury.

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<sup>2</sup> As with practice directives, the Guide only provides non-binding adjudicative guidance.

- [30] Ms. Taylor observed the worker demonstrate awkward wrist postures during a variety of her work tasks, sometimes for up to 60 minutes. She again noted that these tasks make up 80% of the worker's day. She provided examples of how the worker's right wrist was at 75 degrees of flexion and 30 degrees of ulnar deviation in full forearm pronation while chopping potatoes. While stirring with a whisk, her right wrist was at 25 degrees of ulnar deviation in full forearm pronation. Scooping ice cream (for 10 to 15 minutes) placed her right wrist in 35 degrees of extension and with both pronation and supination. Pouring juice also involved both gripping and rotary movements of the right forearm. Ms. Taylor attached photographs, which showed the awkward postures of the worker's right wrist/arm when chopping, whisking, and pouring.

### *Force*

- [31] Ms. Taylor did not measure the worker's power grip during resistance tasks (scooping ice cream, stirring a large pot of stew or ground beef, mixing a large bowl of cookie dough). However, she thought that it should be considered owing to the large quantities of food being prepared. She also noted that although the grip forces for holding a potato peeler would be low, 75 degrees of wrist flexion while peeling potatoes would cause higher muscular forces to be generated at the wrist and forearm increasing the risk for epicondylitis. Ms. Taylor commented that the energy demands associated with repetitive tasks may be low, but it is the frequent use of the small muscle groups with insufficient time for recovery that is associated with the risk of injury.
- [32] Ms. Taylor was asked to specifically address what work factors would account for the worker's condition being bilateral. She offered the following:

Although [the worker] is right hand dominant, there are many tasks that require the use of both upper extremities (e.g., lifting, carrying, chopping, peeling, etc). As well, many of the work tasks require the repetitive use of the same muscle groups over prolonged periods of time. Such tasks are likely to cause fatigue of the small muscles in the forearms and wrists. Alternating between the dominant and non-dominant upper extremity for some tasks (such as mixing, stirring, pouring, etc.) would likely have been a strategy that [the worker] would use to overcome forearm fatigue.

- [33] Ms. Taylor disagreed with the Board medical advisor's opinion, since he relied on the case manager's assessment of risk factors, which Ms. Taylor views as being flawed. She also questions how he could suggest that the worker's diabetes was causative in the worker's condition.

### **Oral Hearing Evidence**

- [34] The worker gave the following evidence.

- [35] During the case manager's job evaluation, he was on site for approximately one hour of which only about 5 to 10 minutes was spent in the kitchen with her. The rest of the time was spent in the boardroom with him asking questions of her and the others in attendance. The only task he had her perform was to stir an empty soup pot. By contrast, Ms. Taylor spent at least three hours with her, mostly in the kitchen. It was the worker's impression that Ms. Taylor "showed an interest" in what the worker did, unlike the case manager. Ms. Taylor went through the kitchen, the storage room, and the fridge, etc., and she weighed things. More importantly, she had the worker demonstrate how she performed her tasks.
- [36] The worker elaborated on the job descriptions that the employer provided by describing and demonstrating what her duties involved. On the morning shift, after opening up the kitchen, the worker would begin to prepare breakfast. Preparation would start a little after the 7:00 a.m. shift began and take approximately 90 minutes until 8:30 a.m. It typically required the worker to do the following:
- make/stir oatmeal and scoop it out into 80 bowls
  - toast 5 to 6 loaves of bread and then butter and cut each slice
  - puree about 20 servings of toast and egg, pour that mixture into an 8-cup pitcher, and then ladle the mixture into 20 bowls
  - pour 3 jugs of 4-litre milk into 16 pitchers
  - pour 1 jug of 4-litre juice into smaller pitchers
- [37] In the above tasks, the worker would use her right hand and arm to stir, butter, cut and pour.
- [38] Breakfast would then be served, following which the worker would clean the counters, stove, work areas, and steam tables. She would then start making the soup for lunch in the large soup kettle. If it was a meat-based soup; she would chop the meat for it. In addition, she would do the lunch dessert preparation. This would involve cutting and slicing of squares, etc. or scooping of ice cream or pudding. Again, all of the chopping, cutting and scooping would be done with her right hand. By approximately 9:30 a.m., she would take a 30-minute break.
- [39] Starting at approximately 10:00 a.m. the worker would make at least 80 sandwiches, but more often it would be 100 or more. She would first butter each slice of bread and then, depending on the type of sandwiches, her movements would vary. If she was making egg salad sandwiches, she would peel approximately 80 eggs, and then blend the mixture for the egg salad. She would then scoop the mixture onto the bread and while rotating the slice of bread four times with her left hand she would spread the egg salad on the slice using the spreader in her right hand. If she was making meat sandwiches, she would operate the meat slicer with her right hand and catch the meat with her left hand. She would then make the meat sandwiches. Making sandwiches would take until approximately 11:45 a.m. Following that, she would portion out the pureed food and ladle it into bowls and portion the food out on the food cart. From noon to



12:30 p.m., she would then serve lunch, which would require her to ladle out soup, put sandwiches or salads onto plates, or scoop out cottage cheese.

- [40] From 12:30 until 1:00 p.m., the worker would do a small clean-up and put food away. She would then have a 30-minute lunch break.
- [41] From 1:30 p.m. until the end of her shift at 3:00 p.m., the worker would pour the leftover soup into containers, and assemble sandwiches and desserts for the night snack. The desserts would vary and could involve her making pudding and scooping it into containers, opening fruit cans and again ladling it into containers, or slicing and buttering loaves and muffins and wrapping in saran wrap. She would also prepare desserts for dinner, and make thickened fluids and milkshakes. For the latter, she would use several four-litre ice cream buckets, along with milk and other ingredients, which would be blended in the blender. She would then label and refrigerate the mixture.
- [42] The worker said that the late morning shift was similar, but there was more chopping and peeling when preparing dinner than when preparing lunch.
- [43] In addition to the above duties, produce, meat and bread would be delivered on Tuesdays, and the cooks would have to tear open the boxes, unpack the stock, and flatten the boxes. On Wednesdays, the staples would arrive and the same process took place.
- [44] The worker confirmed that she was accustomed to her duties; however, in addition to there being an increase in the need for textured food over the years because the residents were simply requiring more modified diets, the hot cart had been introduced in April 2010. This required the cooks to push a food cart to the elevator and lift it up slightly since the elevator was not always level with the floor, and then push the cart and serve food to the various residents (approximately 30 to 40) who did not come to the dining room for meals.
- [45] The worker described being in extreme pain in August 2010 when she finally sought medical assistance. She was able to return to work around the end of October 2010 on a gradual basis. She is back full time to her regular duties, but she is not symptom-free. Her right arm is essentially better; however, she still has pain and some spasms in her left elbow/arm.
- [46] The worker does not participate in any activities outside of work that affect her arms. She has had Type 1 diabetes since she was 24 years old, but it has been under control. She added, however, that she has had some elevated blood sugar levels, which are caused by chronic arm pain, according to her doctor. She had a thyroid condition, but it has been fine for years.

- [47] Upon questioning by Ms. B, the worker confirmed that she uses her right hand for opening cans, slicing, chopping, spreading, scooping, pouring, and stirring; however, she does switch hands to stir the soup and stew pot. She would stir these pots once every 10 to 15 minutes for about a minute at a time when making soup or stews.

## Reasons and Findings

- [48] As earlier noted, the only issue on this appeal is whether the worker's bilateral lateral epicondylitis is compensable as an occupational disease under section 6 of the Act. That section requires that the worker's condition be due to the nature of her employment before benefits can be paid.
- [49] The policies relating to the issue under appeal are primarily set out in Chapter 4 of the *Rehabilitation Services and Claims Manual, Volume II* (RSCM II). I have summarized the most relevant policies below.
- [50] Policy item #26.03, "Recognition by Regulation of General Application," outlines the Board's recognition of epicondylitis as an occupational disease, without specifying that epicondylitis is characteristic of a particular process, trade or occupation.
- [51] Policy item #27.30, "ASTDs Recognized by Regulation," notes that the rebuttable presumption of causation available under section 6(3) of the Act does not apply to epicondylitis. Epicondylitis is, therefore, compensable under section 6(1) of the Act "only if the evidence establishes in the particular case that the disease is due to the nature of any employment in which the worker was employed."
- [52] Policy item #27.31, "Epicondylitis," provides specific guidance for the Board for the adjudication of claims involving both lateral and medial epicondylitis. In particular, the policy item states:

Medical/scientific research on epicondylitis does not as a whole confirm a strong association with employment activities and its mechanisms of development are obscure. Some individual studies do indicate an excess incidence of epicondylitis in employments with tasks strenuous to the muscle-tendon structures of the arm. One often referred to theory suggests that microtears at the attachment of the muscle to the bone may be due to repetitive activity with high force sufficient to exceed the strength of the collagen fibres of the tendon attachment. This in turn may lead to the formation of fibrosis and granulation tissue.

As the research does not clearly relate epicondylitis to any particular employments, each claim must be determined according to its own merits.

The Board recognizes that where the worker was occupationally performing frequent, repetitive, forceful and unaccustomed movements

(including forceful grip) of the wrist that are reasonably capable of stressing the inflamed tissues of the arm affected by epicondylitis, and in the absence of evidence suggesting a non-occupational cause for the worker's epicondylitis condition, a strong likelihood of work causation will exist. These factors are not preconditions to the acceptance of a claim for epicondylitis nor are they the only factors which may be relevant.

[53] Policy item #27.40, "Risk Factors," sets out additional risk factors to be reviewed when considering whether an ASTD is caused by a worker's employment. These include exposure to cold, vibration, and static loads, with the key factors being intensity, duration, and frequency of repetition, force, posture and vibration.

[54] The Guide, which Ms. Taylor referenced, is not binding policy, but it contains useful information that can be helpful in applying the policy. For example, the Guide states in part:

With respect to a lateral epicondylitis, the key factor to be considered is forceful gripping in conjunction with wrist extension and/or forearm supination/pronation (rotary movements).

[55] The Guide explains that force in the context of epicondylitis relates to heavy loads to the elbow. Jobs that are considered forceful in this respect are meatpacking, fish processing, sausage cutting, drilling, pipefitting, and certain types of construction work.

[56] Finally, Practice Directive #C3-2, "Adjudication of [ASTD] Claims," while also not binding policy, may be of assistance. It provides some guidance on what postures may amount to risk factors.

[57] Turning to the facts of the worker's appeal, policy item #27.31 of the RSCM II is the starting point. It provides that work duties may be of causative significance in the development of epicondylitis, in particular where those duties involve forceful gripping combined with repetitive and awkward and unaccustomed movements that are reasonably capable of stressing the muscles and tendons where they attach to the bone on either side of the elbow.

[58] Accordingly, it is necessary to first recognize that lateral epicondylitis is inflammation of the muscle and tendon where it attaches to the bone on the lateral side (outside) of the elbow. According to the Guide, lateral epicondylitis involves primarily the forearm extensors, which are located in the posterior (outside) aspect of the forearm.<sup>3</sup> The Guide further explains that with lateral epicondylitis, we are looking for forceful, repetitive and awkward postures involving the elbow extensor muscles and those tissues are affected when the forearm is supinated (turning the hand/wrist/arm

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<sup>3</sup> By contrast, medial epicondylitis involves the forearm flexors or the anterior (inside) aspect of the forearm.

clockwise) or pronated (turning the hand/wrist/arm counter-clockwise) and/or the wrist is in extension (bent backwards).

- [59] The Guide further explains that wrist extension is considered awkward when it is greater than 45 degrees from anatomical (25 degrees from functional). Both the Guide and the practice directive suggest that ulnar and radial deviation can also be considered awkward postures for lateral epicondylitis; however, they provide different measurements. The Guide suggests that ulnar deviation greater than 20 degrees and radial deviation greater than 15 degrees are awkward, whereas the practice directive suggests that ulnar deviation greater than 10 degrees and radial deviation greater than 10 degrees are awkward. Given this difference, I consider it prudent to prefer the measurements provided in the practice directive. In all cases of awkward postures, it is suggested that the total exposure be greater than 25 to 33% of the workday to be of significance.
- [60] The Guide further explains that force relates to both gripping and lifting, and that there should be high forces for more than 25 to 33% of the workday. As an example, the practice directive suggests that power gripping ten pounds or more for greater than four hours a day would be considered a high force activity.
- [61] As for repetition in cases of lateral epicondylitis, the Guide suggests that wrist extension and/or forearm rotation (pronation/supination) of ten or more movements per minute for greater than 25 to 33% of the workday would be considered repetitive.
- [62] Ms. Taylor stated that preparing foods resulted in awkward wrist postures, and that most of the worker's day was spent preparing foods. She provided examples of these awkward postures when the worker was chopping, stirring, and scooping. She advised that chopping resulted in ulnar deviation of greater than 30 degrees and significant awkward flexion, although I am mindful that awkward flexion is primarily a risk factor for medial epicondylitis. Stirring with a whisk was at 25 degrees of ulnar deviation, and scooping ice cream was at 35 degrees of wrist extension. The worker would scoop ice cream for about 15 minutes at a time. There was no estimate given for the amount of whisking on an average day. On a careful reading of Ms. Taylor's report, it is apparent that the above-noted "awkward wrist postures" are solely in relation to the worker's right wrist.
- [63] Ms. R specifically asked Ms. Taylor to provide an opinion on whether there were any work-related factors to account for the worker's condition being bilateral. Ms. Taylor provided no specifics with respect to the amount of force, repetition, awkward postures, or other risk factors potentially affecting the left wrist and arm. Rather, she simply stated that many tasks ("lifting, carrying, stirring, pouring, etc.") required the use of both extremities, and such tasks were likely to cause fatigue of the "small muscles" in the forearms and wrists. She also commented that the worker "would likely" have alternated between her left and right extremities for some tasks, such as pouring, mixing and stirring, etc., to overcome forearm fatigue. Yet, the worker made it clear during the

hearing that it was only when stirring the soup or stew pot that she would alternate hands, and that was for a very brief period of time.

- [64] I was impressed with the worker's evidence at the hearing. She described her work duties in a straight-forward manner, and I found her evidence to be credible and complete. After hearing the worker, I accept that the case manager had a limited understanding of the worker's job duties and how she performed them. Ms. Taylor certainly had a better understanding, and I found the worker's evidence and demonstration of how she did her duties to provide even greater clarity.
- [65] That said, I also agree with Ms. B's submission on behalf of the employer that Ms. Taylor provided limited objective data to support her opinion on risk factors. On the other hand, the Case Manager provided even less data. Fortunately, with a greater understanding from the worker of her job duties, coupled with the somewhat limited photographs and measurements that Ms. Taylor provided, I am confident that there is sufficient evidence upon which to base a sound decision.
- [66] In this case, it is necessary to acknowledge that there is far more evidence of possible risk factors related to the worker's right wrist and arm. Yet, the worker initially experienced symptoms in her left wrist and arm. In addition, the evidence shows that the activities the worker performed with her left hand and arm were, for the most part, significantly different than those she performed with her right arm. Finally, while the worker's bilateral symptoms have improved considerably, her left arm remains the more symptomatic. As a result, even if I were satisfied that there were sufficient risk factors to conclude that the right lateral epicondylitis could be due to the nature of her employment, the evidence must also establish sufficient risk factors for the onset of the worker's left-sided symptoms, which began first. If I am unable to find sufficient risk factors to conclude that work activities were of causative significance in the onset of the worker's left lateral epicondylitis, then her claim must fail.
- [67] Accordingly, with the benefit of all of the evidence, particularly that of the worker, I have carefully considered any possible risk factors to which the worker's left wrist and arm may have been exposed. Under policy item #27.31 of the RSCM II, I am to first consider the combination of frequent, repetitive, forceful and unaccustomed movements that would stress the muscles and tendons where they attach to the lateral epicondyle.
- [68] I am satisfied that, on an intermittent and occasional basis, the worker's left upper extremity was exposed to force when lifting certain heavier items. I also find that her left arm and wrist were, at times, held in a static posture (catching meat slices, holding onto things with the left hand while the right hand stirred, chopped, etc.). I further accept that, on an intermittent and occasional basis, she would have to reach awkwardly with her left arm. When making certain sandwiches, she would also have to move her left wrist and hand in an awkward manner when rotating the bread. There were likely other occasions where her left wrist and arm were placed in awkward postures, such as when

cleaning and doing dishes. However, the evidence suggests that this was only on an intermittent basis throughout the workday.

- [69] The worker would have been exposed to cold, but again this was only on an intermittent and occasional basis. As well, there was certainly repetition in her job duties, but the evidence does not establish that those repetitive movements were of a duration, frequency or intensity so as to stress the left-sided tissues in question. In short, the evidence does not suggest that there is any one risk factor or any combination of risk factors to find that the worker's left lateral epicondylitis was due to the nature of her work as a cook. In particular, I note that the variety of tasks the worker performed throughout the day allowed her left wrist and arm to frequently return to neutral postures. And, I am mindful that the Guide provides that there is insufficient epidemiologic evidence in the medical literature to support an association between lateral epicondylitis and repetitive activities alone, in the absence of forceful work.
- [70] It is also significant, in my view, that the worker was accustomed to her job duties when she developed left elbow pain in February 2010. The worker had been performing the same job duties for years, and other than a gradual increase in the amount of textured food that needed to be prepared, there were no changes to those job duties. The hot cart was introduced in April 2010, but the worker had developed her left-sided symptoms before then.
- [71] I acknowledge that Dr. Shaw attributed the worker's condition to the repetitive nature of her job duties, but I give little weight to Dr. Shaw's opinion. There is no indication that Dr. Shaw formed her opinion based on a complete understanding of the worker's job duties in relation to the risk factors for lateral epicondylitis as defined by Board policy.
- [72] Finally, while I acknowledge Ms. Taylor's credentials and recognize her expertise, the evidence and reasons she provided to explain why work was of causative significance in the development of the worker's bilateral symptoms was not persuasive.
- [73] The question is whether the evidence on the whole leads to a conclusion that the worker's bilateral epicondylitis was due to the nature of her employment. Even if I were to accept that the worker had been exposed to sufficient occupational risk factors for right-sided lateral epicondylitis, in the absence of sufficient occupational risk factors for the left side, I cannot accept that the worker's employment exposed her to any single risk factor to a sufficient degree or to any combination of risk factors sufficient to conclude that her work activities were of causative significance in the onset of her bilateral lateral epicondylitis.
- [74] While it is not necessary for me to determine what has caused the worker's condition, I wish to point out that the worker's diabetes has not played a role in my decision. Rather, I simply do not have sufficient positive evidence to establish that the worker's job duties were of causative significance in the development of her bilateral lateral epicondylitis.

## Conclusion

- [75] I deny the worker's appeal and confirm the Review Division decision. I find that the worker's bilateral lateral epicondylitis was not due to her employment activities.
- [76] The worker provided an invoice in the amount of \$1,270 for Ms. Taylor's Risk Assessment and Report. Item #16.1.3 of the WCAT's *Manual of Rules of Practice and Procedure* (MRPP) provides that WCAT will generally order reimbursement of expenses for obtaining written evidence, regardless of the result in the appeal, where the evidence was useful or helpful to the consideration of the appeal, or it was reasonable for the party to have sought the evidence. I find it was reasonable for the worker to have sought the opinion of Ms. Taylor in relation to risk factors in the causation of her lateral epicondylitis, and I found the report to be helpful. Although there is no fee schedule at WCAT for ergonomic assessments and reports, I consider the amount charged to be reasonable. I order the Board to reimburse the worker the expense of obtaining Ms. Taylor's opinion in the amount of \$1,270.
- [77] At the hearing, Ms. R was uncertain if the worker had travelled more than 24 kilometres to and from the hearing so as to be eligible for mileage expenses. Practice Directive #16.1.2 of WCAT's MRPP states that WCAT will generally order reimbursement of certain expenses for a worker's own attendance at an oral hearing if the worker was successful on the appeal.
- [78] The worker was unsuccessful on this appeal. Thus, even if she had incurred sufficient mileage expenses, I see no reason to depart from Practice Directive #16.1.2 of the MRPP and deny the worker reimbursement of any expenses that she may have incurred to attend the oral hearing.
- [79] The employer was not seeking any expenses.

Elaine Murray  
Vice Chair

EM/hb