

STATE OF ILLINOIS       )  
                                      ) SS.  
COUNTY OF                )  
JEFFERSON

<input type="checkbox"/>	Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/>	Rate Adjustment Fund (§8(g))
<input type="checkbox"/>	Second Injury Fund (§8(e)(18))
<input type="checkbox"/>	PTD/Fatal denied
<input checked="" type="checkbox"/>	None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Jeff Farmer,  
Petitioner,

**09IWCC0437**

vs.

NO: 06 WC 9616

Continental Tire North America, Inc.,  
Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, medical expenses, temporary total disability, and permanent partial disability and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed July 2, 2007 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

**09IWCC 0437**


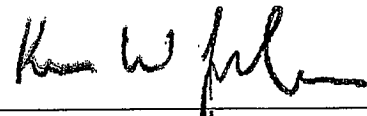
Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of \$75,000.00. The probable cost of the record to be filed as return to Summons is the sum of \$35.00, payable to the Illinois Workers' Compensation Commission in the form of cash, check or money order therefor and deposited with the Office of the Secretary of the Commission.

DATED: MAY 4 2009

o-04/29/09

pwr/wj

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Paul W. Rink  
Barbara A. Sherman  
Kevin W. Lamborn

ILLINOIS WORKERS' COMPENSATION COMMISSION  
NOTICE DECISION OF ARBITRATOR

09IWCC0437

Jeff Farmer

Employee/Petitioner

Case # 06 WC 9616

v.

Continental Tire North America Inc

Employer/Respondent

On Jul 2 2007, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

A copy of this decision is mailed to the following parties:

57 1459 06 WC 9616  
LEVENHAGEN, T FRITZ  
4495 N ILLINOIS ST\*  
SUITE E  
BELLEVILLE, IL 62226

58 0693 06 WC 9616  
FEIRICH MAGER GREEN & RYAN  
2001 W MAIN ST\*  
PO BOX 1570  
CARBONDALE, IL 62903

ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION

**JEFF FARMER,**  
Employee/Petitioner

Case # **06** WC **09616**

v.

**CONTINENTAL TIRE NORTH AMERICA, INC.,**  
Employer/Respondent

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Jeffery Tobin**, arbitrator of the Commission, in the city of **Mt. Vernon**, on **April 18, 2007**. After reviewing all of the evidence presented, the arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

**DISPUTED ISSUES**

- A. ☐ Was the respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
- B. ☐ Was there an employee-employer relationship?
- C. ☒ Did an accident occur that arose out of and in the course of the petitioner's employment by the respondent?
- D. ☐ What was the date of the accident?
- E. ☐ Was timely notice of the accident given to the respondent?
- F. ☒ Is the petitioner's present condition of ill-being causally related to the injury?
- G. ☐ What were the petitioner's earnings?
- H. ☐ What was the petitioner's age at the time of the accident?
- I. ☐ What was the petitioner's marital status at the time of the accident?
- J. ☒ Were the medical services that were provided to petitioner reasonable and necessary?
- K. ☒ What amount of compensation is due for temporary total disability?
- L. ☒ What is the nature and extent of the injury?
- M. ☒ Should penalties or fees be imposed upon the respondent?
- N. ☐ Is the respondent due any credit?
- O. ☒ Other **Mileage**

FINDINGS

09IWCC 0437

- On 08/24/2005, the respondent Continental Tire North America, Inc. was operating under and subject to the provisions of the Act.
- On this date, an employee-employer relationship did exist between the petitioner and respondent.
- On this date, the petitioner did sustain injuries that arose out of and in the course of employment.
- Timely notice of this accident was given to the respondent.
- The parties stipulated that petitioner's average weekly wage was \$ 890.09.
- At the time of injury, the petitioner was 37 years of age, married with 2 children under 18.
- Necessary medical services have in part been provided by the respondent.
- To date, \$ 0.00 has been paid by the respondent for TTD and/or maintenance benefits.

ORDER

- The respondent shall pay the petitioner temporary total disability benefits of \$ 593.39/week for 16-4/7 weeks, from 09/28/2006 through 01/22/2007, which is the period of temporary total disability for which compensation is payable. Respondent is entitled to receive a credit for \$4,134.06 in group non-occupational disability benefits against the amount of temporary total disability benefits awarded herein.
- The respondent shall pay the petitioner the sum of \$ 534.05/week for a further period of 159.775 weeks, as provided in Section 8(e) of the Act, because the injuries sustained caused 22.5% permanent partial disability to the left arm, 22% permanent partial disability to the left hand, 5% permanent partial disability to the right arm, and 22% permanent partial disability to the right hand. (\*new rates for 8/05 date of accident)
- The respondent shall pay the petitioner compensation that has accrued from 08/24/2005 through 04/18/2007, and shall pay the remainder of the award, if any, in weekly payments.
- The respondent shall pay the further sum of \$ 23,579.30 for necessary medical services, as provided in Section 8(a) of the Act. The respondent shall pay the further sum of \$ 198.45 for travel expenses while seeking treatment. The parties stipulate that the respondent shall have credit for any of the awarded medical it previously paid.
- The respondent shall pay \$ 0.00 in penalties, as provided in Section 19(k) of the Act.
- The respondent shall pay \$ 0.00 in penalties, as provided in Section 19(l) of the Act.
- The respondent shall pay \$ 0.00 in attorneys' fees, as provided in Section 16 of the Act.

**RULES REGARDING APPEALS** Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

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**STATEMENT OF INTEREST RATE** If the Commission reviews this award, interest of \_\_\_\_\_ % shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of arbitrator

6/26/07  
Date

JUL 2 2007

**The Arbitrator hereby finds the following facts regarding all disputed issues:**

Petitioner works as a mixer operator at respondent's tire manufacturing plant in Mt. Vernon, Illinois. He has been employed continuously with respondent since January 12, 1989. Petitioner's job duties required that he move 80-pound blocks of rubber using a hydraulic manipulator. He would transfer between six and eight blocks from a pallet onto a conveyor belt. He would also lift buckets of chemical compounds weighing between 10 to 60 pounds and place them on a conveyor belt. Petitioner testified that the job description attached to Dr. Young's deposition as Petitioner's Exhibit No. 5 accurately described the job duties he was required to perform as a mixer operator. The job description details the repetitive nature of petitioner's work.

On August 24, 2005, petitioner experienced increasing pain in both of his hands and elbows while performing his job duties as a mixer operator. He reported the problems to his employer and was sent to the plant physician, Dr. Byler.

On August 29, 2005, Dr. Byler prescribed an elbow strap and wrist supports. He also recommended anti-inflammatory medication. On September 19, 2005, Dr. Byler noted no improvement in petitioner's symptoms. He prescribed physical therapy and continued use of the prescribed braces. He also placed petitioner on light duty restrictions. On October 3, 2005, Dr. Byler sent petitioner to Dr. Richard Howard in St. Louis, Missouri.

On October 13, 2005, Dr. Howard examined petitioner and noted complaints of bilateral elbow pain and bilateral hand numbness and tingling. Dr. Howard diagnosed bilateral lateral epicondylitis and bilateral carpal tunnel syndrome. Dr. Howard recommended a nerve conduction study to confirm the diagnosis and determine treatment recommendations. With regard to the cause of petitioner's complaints, Dr. Howard's report, dated October 13, 2005, specifically states, "He has worked as a mixer, which seems to be the primary job that caused his problems."

On October 13, 2005, Dr. Naseem Shekhani performed a nerve conduction study revealing right sensory carpal tunnel syndrome and left ulnar neuropathy at the elbow. On November 10, 2005, Dr. Howard noted petitioner's lack of improvement following conservative measures and recommended right carpal tunnel surgery.

On January 5, 2006, the respondent sent petitioner for a Section 12 examination with Michael Nogalski, M.D. Dr. Nogalski recommended an MRI of the cervical spine. Petitioner testified that he never told Dr. Nogalski that he had any complaints of neck pain. Petitioner further testified that he never complained of neck pain to any of the physicians he has treated with for his bilateral hand and arm pain.

Because of his continued arm and hand pain, petitioner scheduled an appointment with his personal physician, Clint Conner, M.D., who saw him on February 20, 2006. Dr. Conner diagnosed bilateral ulnar and median neuropathies and referred petitioner to an orthopedist, Steven Young, M.D., for further treatment. On March 1, 2006, Dr. Young examined petitioner regarding his bilateral hand pain and numbness. Dr. Young recommended a repeat nerve conduction study.

On March 31, 2006, the repeat nerve conduction was performed by Terrence Glennon, M.D. revealing bilateral median neuropathy at the wrist. On April 13, 2006, Dr. Young again evaluated the petitioner and found a positive Tinel's and positive median nerve compression test at the wrists bilaterally. Dr. Young again diagnosed bilateral carpal tunnel syndrome and left ulnar nerve entrapment. Dr. Young recommended surgical intervention. On August 8, 2006, Dr. Young stated in a report, "I do believe based on the job description and the patient's complaints, his symptoms are in fact exacerbated by his job at Continental Tire." Dr. Young testified that there was a causal relationship between petitioner's condition of ill being and his job activities.

On October 11, 2006, Dr. Young performed a left carpal tunnel release and left ulnar nerve transposition at Marion HealthCare, LLC. On December 2, 2006, Dr. Young performed a right carpal tunnel release at Marion HealthCare, LLC. Following surgery, petitioner noted improvement in his symptoms. Dr. Young released him to return to work on January 22, 2007.

Petitioner testified that he has had improvement in his hand and arm pain following the surgeries. However, he continues to experience weakness in both of his hands as well as a loss of grip strength. He has a lack of sensitivity in his hands. He has difficulty handling small objects. He notices that his hands cramp. He has coldness in his hands which he did not have previously. He has weakness and a loss of stamina in both arms. He testified that items he was able to lift easily with one hand and arm now require both hands and arms. He has soreness in both of his elbows. He has changed jobs so that he is not required to lift as much as he was previously. He has a loss of stamina in his arms and has difficulties with activities such as playing ball with his son or fishing. He has tenderness in his left elbow. He also has continued aching pain in his right elbow. Petitioner is right-hand dominant.

Petitioner has had no prior or subsequent workers' compensation claims. Petitioner did not receive payment of his temporary total disability benefits when he remained off from work. Petitioner testified that he was sent home on September 27, 2006 by Steve Crane, the workers' compensation administrator at Continental Tire North America, Inc. Mr. Crane informed petitioner that he should not return to work until he was capable of performing full duty work activities. Petitioner received approximately \$266.00 net in accident and health benefits when he remained off from work.

Petitioner testified that the bills submitted at Arbitration were related to the treatment he received for his hands and arms.

Petitioner submitted mileage expenses which were incurred by him for trips he made to Dr. Howard's office from his home. Petitioner testified that he thought he was required to attend the appointments with Dr. Howard since the plant physician referred him to Dr. Howard.

**Therefore, the Arbitrator concludes:**

1. On August 24, 2005, petitioner did sustain an accident that arose out of and in the course and scope of his employment with the respondent.

2. Petitioner's condition of ill being is causally related to the August 24, 2005 injury. The Arbitrator places greater weight on the testimony of the treating physician, Dr. Young.
3. As a result of the accident of August 24, 2005, petitioner was temporarily totally disabled from September 28, 2006 through January 22, 2007. Respondent is entitled to receive a credit for \$4,134.06 in group non-occupational disability benefits against the amount of temporary total disability benefits awarded herein.
4. The medical bills in the amount of \$23,579.30 are reasonable, necessary, and causally related to petitioner's accident as outlined above. The following bills are hereby awarded:

<u>Medical Provider(s) / Dates of Service</u>	<u>Amount</u>
Clint Conner, M.D. 02/20/06	\$ 106.00
Steven Young, M.D./Southern Orthopedic Associates 03/01/06-01/18/07	6,986.00
Marion HelathCare Surgical Center 10/11/06	10,627.46
12/02/06	5,814.74
CVS Pharmacy 10/11/06 (Reimburse Petitioner)	10.00
Michael Nogalski, M.D. 01/05/06	<u>35.10</u>
Total Amount of Medical Bills	\$23,579.30

Medical bills incurred after February 1, 2006 shall be paid by respondent in accordance with the newly adopted Medical Fee Schedule. Respondent shall receive credit for all amounts previously paid.

5. The reasonable expense incurred for travel or transportation to obtain medical treatment is an expense incidental to treatment necessary for the physical rehabilitation of the petitioner. These are expenses that petitioner would not have had if he had not sustained a work-related injury. As such, the petitioner traveled 490 miles for his medical care and treatment. The Arbitrator finds that the mileage is reasonable. The Arbitrator awards 490 miles, which equals \$198.45, as calculated below:

<u>Dates of Rates</u>	<u>Rate</u>	<u>Miles</u>	<u>Amount</u>
07/01/05 thru 06/30/06	.405	490	\$ 198.45

Respondent shall receive credit for all amounts previously paid.



6. The petitioner sustained 22.5% permanent partial disability to the left arm, 22% permanent partial disability to the left hand, 5% permanent partial disability to the right arm, and 22% permanent partial disability to the right hand.
7. With regard to petitioner's claim for penalties and attorney's fees, respondent's defense of this claim does not rise to the level of unreasonableness or vexatiousness to justify the imposition of penalties or attorney's fees. Penalties are denied in whole.