

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

<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

RENEE M. KEIFER,

Petitioner,

vs.

NO: 07 WC 18731

DELNOR COMMUNITY HOSPITAL,

101WCC0861

Respondent.

DECISION AND OPINION ON REVIEW

Petitioner appeals Arbitrator Kinnaman's decision, filed on August 27, 2009, finding that Petitioner failed to prove that her cubital tunnel syndrome is causally related to the undisputed work accident Petitioner sustained on February 28, 2007. The Arbitrator also found that Petitioner was not entitled to reimbursement for any medical expenses or any temporary total disability benefits because her medical expenses and lost time were incurred for her cubital tunnel syndrome condition. The Arbitrator awarded Petitioner 20.5 weeks of permanent partial disability benefits representing a 10% loss of use of Petitioner's right hand for a hand contusion and wrist strain. The issues on review are causal connection, medical expenses, temporary total disability benefits, and permanent partial disability benefits. The Commission, after having considered the record, hereby reverses the Arbitrator's decision and finds that Petitioner has met her burden in proving that her cubital tunnel syndrome is causally related to the accident of February 28, 2007. The Commission finds that Petitioner is entitled to 6-6/7 weeks of temporary total disability benefits, medical expenses as stated herein, and an additional 37.95 weeks of permanent partial disability benefits representing a 15% loss of use of Petitioner's right arm.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Petitioner, a 29 year old transporter, testified that she started working for Respondent in August 2006. As a transporter, Petitioner stated that her job was to move patients throughout the hospital in wheelchairs, stretchers, and beds.

Petitioner testified that on February 28, 2007, she was with a coworker getting into the main lobby elevator. Petitioner described the accident as follows: "there was a construction worker coming. I stepped out of the elevator, held it for him, and had turned my back in the elevator with my arm still in the door and it had closed on my [right] hand." Petitioner indicated that the entire back side of her right hand and across the back of her right wrist were struck by the elevator door. Petitioner described further that the door basically "closed on [her] hand and just smashed up." Petitioner also stated that the elevator door did not reopen and she had to pull and jerk out her hand.

Petitioner testified that after the accident, she noticed that her hand and wrist were "just very painful" and that she had a dent in the back of her hand with a big, purple spot around it. Petitioner indicated that the injury happened at the end of her work shift and that she completed her shift that day and left. Petitioner also testified that she did not receive medical attention that day.

Petitioner testified that she worked the following day and worked for about another week. She indicated that she first sought medical attention in Respondent's emergency room on February 28, 2007, where she was examined, had x-rays, and was given some ibuprofen and a splint for her right hand and wrist.

Petitioner stated that she was directed to follow up with Delnor Employee Health & Wellness ("Delnor Employee Health"), and went there on March 13, 2007, where she was examined and instructed by the doctor to continue wearing her splint, not to engage in any heavy pushing or pulling, and to continue taking ibuprofen. Petitioner testified that she returned to Delnor Employee Health on March 19, 2007, and indicated that she was still sore and very weak, and that she had numbness and tingling which "went down from [her] ring finger and [her] little finger straight up through [her] elbow." Petitioner stated that, at her next visit at Delnor Employee Health on March 22, 2007, she was referred to Dr. Torosian, an orthopedic surgeon.

Petitioner testified that she began treating with Dr. Torosian at Fox Valley Orthopedics on March 28, 2007, at which time he recommended an MRI of her wrist. Petitioner had an MRI of her wrist on April 10, 2007. Petitioner also stated that she participated in physical therapy at Fox Valley Orthopedics. Petitioner testified that on August 22, 2007, Dr. Torosian told her to return to full duty work effective August 25, 2007.

Petitioner stated that on October 3, 2007, she returned to see Dr. Torosian and told him what she noticed about herself. Petitioner also stated that, at that time, she put in a request for a job transfer from transporting to working in the emergency department as a patient care

technician/unit clerk. Petitioner stated that her duties in the emergency department include data entry and moving and lifting patients.

Petitioner testified that she returned to see Dr. Torosian on December 12, 2007, and he prescribed an EMG/NCV for her right arm, which she had on December 28, 2007. Petitioner returned to see Dr. Torosian on January 2, 2008, at which time Dr. Torosian went over the results of the EMG/NCV and returned her to regular duty.

Petitioner stated that after she last saw Dr. Torosian on January 2, 2008, her condition did not improve: she still had pain, numbness, and tingling in her arm. Petitioner explained that the symptoms were in her small finger, ring finger, and went all the way up through her wrist and up to her elbow.

Petitioner testified that she sought a course of treatment with Dr. Patari, a hand surgeon, beginning on January 30, 2008. Petitioner ultimately underwent an ulnar nerve transposition with Dr. Patari on July 3, 2008. After the surgery, Petitioner participated in a course of physical therapy, and, on August 20, 2008, she returned to work as a patient care technician in the emergency department. Dr. Patari released Petitioner to return to full duty work without restrictions on October 3, 2008.

Concerning Petitioner's current condition, she testified that her arm is "very sore" and "still weak." Petitioner indicated that typing worsens her symptoms, that moving patients by wheelchair or a stretcher causes pain in her arm, and that holding a hair dryer hurts her wrist and elbow. Petitioner testified that she also has difficulty with holding the steering wheel of her car for long periods of time.

The Commission hereby reverses the Arbitrator's decision and finds that Petitioner has met her burden in establishing that the cubital tunnel condition in her right arm is causally related to the undisputed work accident she sustained on February 28, 2007. The Arbitrator found that Petitioner failed to prove that her cubital tunnel syndrome is causally related to the accident of February 28, 2007, seemingly because of the lack of documentation of symptoms associated with cubital tunnel syndrome in Petitioner's medical records prior to December 21, 2007. The Commission disagrees and believes that earlier medical records document symptoms associated with cubital tunnel syndrome.

Petitioner has had hand pain from the beginning. Petitioner testified that immediately following the accident, she had pain in her wrist and her hand. When Petitioner first sought treatment at the emergency room on March 11, 2007, she complained of pain in her right hand and wrist mostly, and she denied numbness and tingling. The records from Delnor Employee Health on March 13, 2007, document that Petitioner had reported tingling initially but had not had weakness, numbness, or tingling since. On March 19, 2007, Petitioner returned to Delnor Employee Health and she complained of shooting pain that traveled up the palmar side of the forearm, extending to the antebrachial, antecubital and brachial aspect of her upper extremity.

Petitioner denied numbness and tingling on this date. She was diagnosed with a right hand contusion.

By March 22, 2007, Petitioner was reporting to the nurse practitioner at Delnor Employee Health that she had difficulty doing tasks with her right hand, such as blow drying her hair, writing, and applying make-up. Petitioner also reported on this date that she continued to have shooting pain to the ventral aspect of her wrist that traveled up to her elbow. The nurse practitioner noted on March 22, 2007, that “[a]fter probing further regarding her history of the mechanism of injury, it was revealed that when her hand was caught in the door of the elevator, the door did not open and she pulled her hand, using a significant amount of strength, from the closed door.” The nurse practitioner indicated that Petitioner would benefit from an MRI to rule out a tendon injury and referred her to a hand and wrist specialist to determine whether an MRI was needed. The nurse practitioner assessed Petitioner with wrist pain, and wanted to rule out muscle or joint injury secondary to overstretching of hand from forearm.

When Petitioner saw Dr. Torosian for the first time on March 28, 2007, Petitioner reported hand and wrist pain, and indicated that her pain radiated up her arm and into her elbow and down into her fingers. Petitioner also denied numbness and tingling on this date. Dr. Torosian diagnosed Petitioner with a right wrist contusion with diffuse pain and recommended an MRI of her right wrist. Dr. Torosian noted that he believed Petitioner’s injury was more of a bone contusion and a forearm/wrist contusion. When Petitioner returned to see Dr. Torosian on April 18, 2007, June 20, 2007, and August 22, 2007, it appears that the focus was only on her wrist. The June 20, 2007, and August 22, 2007, notes reflect that the physical examinations were limited to her wrist only. The Commission believes that Petitioner’s treatment with Dr. Torosian was focused on her right wrist and little, if any, regard was given to her right arm despite the nurse practitioner’s notation of a muscle or joint injury secondary to overstretching of the hand from the forearm.

The Arbitrator also found that while Petitioner had some shooting pain into her right forearm to her elbow shortly after the accident, those symptoms resolved according to Dr. Torosian’s notes. The Commission disagrees with this finding. Petitioner’s pain was documented consistently. The only record from Dr. Torosian that seems to have indicated that her radiating pain resolved is the note dated October 3, 2007. In this note, Dr. Torosian documented Petitioner stated that the radiating pain she had before was no longer there, but that she continued to have ulnar-sided wrist discomfort. As indicated above, it appears that Dr. Torosian was still focused on Petitioner’s wrist only during the October 3, 2007, visit. When Petitioner returned to see Dr. Torosian on December 12, 2007, he documented that her discomfort radiated up into her forearm again. Dr. Torosian documented numbness in Petitioner’s small finger for the first time and he diagnosed her with early cubital tunnel syndrome. The Commission does not believe that Petitioner’s radiating symptoms ever resolved.

The Commission finds it significant that Petitioner's symptoms continued until she finally had a corticosteroid injection in her cubital tunnel performed by Dr. Patari on February 15, 2008. After her corticosteroid injection, Petitioner returned to Dr. Patari on February 29, 2008, and reported complete resolution of her symptoms. Of note is that Dr. Patari performed a corticosteroid injection also into her wrist at the radiocarpal joint on January 30, 2008, since Petitioner indicated that the majority of her pain was coming from that joint. After that injection into her wrist, Petitioner reported only temporary improvement in her symptoms, and the pain in her right wrist returned. It is significant that it was not until Petitioner had the injection in her cubital tunnel that her symptoms abated, and it was not until after she had surgery on her cubital tunnel that her condition improved.

We also note that the evidence does not support a conclusion that Petitioner easily freed herself from the elevator doors. Petitioner testified she had to jerk her hand out, and thereafter noticed a dent in the back of her hand with a purple spot around it. Moreover, as indicated above, when Petitioner followed up at Delnor Health on March 22, 2007, Petitioner explained that the door did not open to release her hand and she had to use a "significant amount of strength" to free her hand. We believe that the mechanism of injury was a forceful pulling of her right arm. This mechanism of injury is consistent with Dr. Patari's opinion that Petitioner stretched the inside part of her elbow when she yanked her hand out of the elevator doors, which, in turn, stretched her ulnar nerve.

The Commission concludes that Petitioner has met her burden in proving that her cubital tunnel syndrome is causally related to the accident of February 28, 2007.

The Commission further concludes that Petitioner is entitled to 6-6/7 weeks of temporary total disability benefits, representing a period from July 3, 2008, through August 19, 2008. Respondent agreed to the period of temporary total disability and disputed liability only.

The Commission further concludes that Petitioner is entitled to medical expenses in the sum of \$16,489.31, pursuant to the medical fee schedule. Petitioner is also entitled to the bill from Delnor Community Hospital, which is to be adjusted internally by Respondent.

The Commission further concludes that, in addition to the permanent partial disability awarded for her right hand by the Arbitrator, Petitioner is entitled to 37.95 weeks of permanent partial disability benefits representing a 15% loss of use of Petitioner's right arm.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Arbitrator's decision, filed on August 27, 2009, is hereby reversed.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$238.47 per week for a period of 6-6/7 weeks, that having been the period of temporary total incapacity for work under §8(b) of the Act.

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IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$225.32 per week for a period of 39.95 weeks, as provided in §8(e) of the Act, for the reason that the injuries sustained caused 15% loss of use of Petitioner's right arm. This benefit rate reflects the minimum permanent partial disability rate for claimants with two dependents. The Request for Hearing form indicates that Petitioner has two children under the age of 18 years.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$225.32 per week for a period of 20.5 weeks, as provided in §8(e) of the Act, for the reason that the injuries sustained caused 10% loss of use of Petitioner's right hand. This benefit rate reflects the minimum permanent partial disability rate for claimants with two dependents. The Request for Hearing form indicates that Petitioner has two children under the age of 18 years.



IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$16,489.31 for medical expenses under §8(a) of the Act. Respondent is also liable for the bill from Delnor Community Hospital.

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

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

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of \$31,800.00. 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: SEP 7 2010
BAS: lc
o 6/02/10
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Barbara A. Sherman

Yolaine Dauphin

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DISSENT

I respectfully dissent from the Majority. I would affirm and adopt Arbitrator Kinnaman's decision. I find it persuasive that after presiding over the hearing in this matter Arbitrator Kinnaman's decision was both accurate and specific, grounding her findings regarding causal connection in the evidence, as set forth by the medical records and the testimony of the Petitioner. I would affirm this decision in its entirety.

A handwritten signature in black ink, appearing to read "Kevin W. Lamborn", written over a horizontal line.

Kevin W. Lamborn