

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 checked="" type="checkbox"/>	None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Troy Dishner,  
Petitioner

vs.

NO: 06 WC 34336

**06 I W C C 0965**

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 the nature and extent of Petitioner's disability, travel expenses 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 February 8, 2008 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.

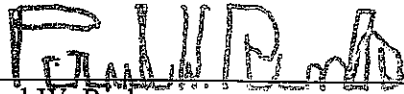
IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

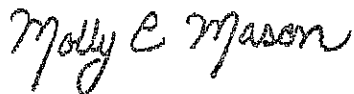
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Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of \$75,000.00. The probable cost of the record to be filed as return to Summons is the sum of \$35.00, payable to the Illinois Workers' Compensation Commission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

DATED: AUG 12 2008

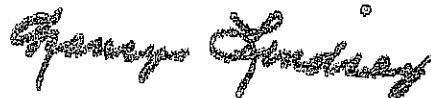
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\_\_\_\_\_  
Paul W. Rink

  
\_\_\_\_\_  
Molly C. Mason

DISSENT

I respectfully disagree with the Majority's Decision affirming and adopting the Arbitrator's Decision finding that Petitioner sustained 20% loss of use of each arm and each hand as a result of his work-related injury. I agree with the award of 20% loss of use of the right arm but would have awarded Petitioner 17.5% loss of use of the left arm, 15% loss of use of the left hand, and 17.5 % loss of use of the right hand. Petitioner had bilateral carpal tunnel syndrome and bilateral cubital tunnel syndrome. He is right hand dominant. He was given full duty releases and returned to his regular job. When last seen by Dr. Dehghan he indicated that he had no complaints and his hand symptoms had completely resolved. While he testified to subjective complaints of tenderness and pain, he has not sought any further treatment with Dr. Dehghan and there is no objective evidence in the record confirming any ongoing subjective complaints. For this reason, I dissent.

  
\_\_\_\_\_  
Nancy Lindsay

ILLINOIS WORKERS' COMPENSATION COMMISSION  
NOTICE OF ARBITRATOR DECISION

DISHNER, TROY

Employee/Petitioner

Case# 06WC034336

**08IWCC0965**

CONTINENTAL TIRE NORTH AMERICA INC

Employer/Respondent

On 02/08/2008, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 2.16% shall accrue from the date listed above 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.

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

1459 LEVENHAGEN, T FRITZ  
4495 N ILLINOIS ST  
SUITE E  
SWANSEA, IL 62226

3299 KEEFE & DEPAULI  
#2 EXECUTIVE DR  
FAIRVIEW HTS, IL 62208.

ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION

TROY DISHNER,  
Employee/Petitioner

Case # 06 WC 34336

v.

CONTINENTAL TIRE NORTH AMERICA, INC.,  
Employer/Respondent

**08IWCC0985**

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 January 23, 2008. 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

U8I WCC 0965

- On 04/21/2006, 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 the average weekly wage was \$1,030.49.
- At the time of injury, the petitioner was 41 years of age, *married* with 1 child under 18.
- The parties stipulated and agreed that the medical bills submitted at Arbitration were reasonable, necessary, and causally related to petitioner's injury.
- The parties stipulated that all temporary total disability benefits have been paid and that no additional temporary total disability benefits are claimed.

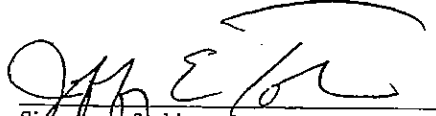
ORDER

- The respondent shall pay the petitioner the sum of \$ 591.77/week for a further period of 183.2 weeks, as provided in Section 8(e) of the Act, because the injuries sustained caused 20% permanent partial disability to the right arm, 20% permanent partial disability to the right hand, 20% permanent partial disability to the left arm and 20% permanent partial disability to the left hand.
- The respondent shall pay the petitioner compensation that has accrued from 04/21/2006 through 01/23/2008, and shall pay the remainder of the award, if any, in weekly payments.
- The respondent shall pay the further sum of \$ 993.16 for necessary medical services, as provided in Section 8(a) of the Act. The respondent shall pay the further sum of \$1,472.78 for reasonable travel expenses incurred while seeking medical treatment. The parties stipulate that the respondent shall have credit for any of the awarded medical that it previously paid.
- The respondent is further entitled to a credit for PPD previously paid in the amount of \$4,734.16 as of the date of arbitration.

**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.

2.16

**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

2/04/08  
 Date

FEB 8 2008

TROY DISHNER V. CONTINENTAL TIRE NORTH AMERICA, INC.  
06 WC 34336

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

Petitioner, a 41-year-old passenger tire builder has been employed with the respondent continuously since 1991. Petitioner would build approximately 60 to 70 tires per hour. He sustained repetitive trauma injuries to both of his arms and hands while working as a passenger tire builder.

Petitioner developed increasing pain in both of his hands and elbows while performing his job duties as a passenger tire builder and reported these increased problems to his employer on April 21, 2006.

On April 21, 2006, petitioner was seen by his personal physician, James Alexander, M.D., for complaints involving his left elbow and wrist. Dr. Alexander recommended physical therapy and prescription medications.

On April 27, 2006, petitioner was examined by the plant physician Keith Byler, M.D. At that time, petitioner complained of left medial epicondylar pain with numbness and tingling into his hands. Dr. Byler provided the petitioner with an elbow strap and agreed with Dr. Alexander's therapy recommendations. Petitioner participated in a course of physical therapy at Work-Fit which is the plant physical therapy facility. He received physical therapy through June 2006.

Petitioner sought further care and treatment with Khash Dehghan, M.D., a plastic surgeon in Edwardsville, Illinois. Dr. Dehghan initially saw the petitioner on July 26, 2006, at which time he noted the petitioner's complaints of pain in both of his hands and arms with numbness and tingling. Dr. Dehghan found a positive Tinel's and median nerve compression test over both carpal tunnels. In addition, he found a positive Tinel's over both cubital tunnels. Dr. Dehghan diagnosed bilateral carpal tunnel and cubital tunnel syndrome and recommended that petitioner obtain a nerve conduction study. On August 16, 2006, a nerve conduction study was performed by Lori Guyton, M.D.

On September 6, 2006, petitioner returned to Dr. Dehghan concerning increasing problems and difficulties with both of his hands and elbows. Dr. Dehghan performed an injection into the right lateral epicondyle.

On October 18, 2006, Dr. Dehghan noted continued pain in petitioner's bilateral elbows. At that time, Dr. Dehghan recommended surgical intervention.

On January 9, 2007, the respondent sent petitioner for a Section 12 examination with Anthony Sudekum, M.D. in Chesterfield, Missouri. Dr. Sudekum noted petitioner's employment with Continental Tire North America, Inc. as a passenger tire builder for approximately 15 years. On examination, Dr. Sudekum noted tenderness with palpation of the bilateral medial elbows and proximal palms. In addition, he noted positive Tinel's and Phalen's bilaterally at the wrists and elbows. Dr. Sudekum diagnosed bilateral carpal tunnel and cubital tunnel and recommended that petitioner undergo another nerve conduction study. According to his report, Dr. Sudekum states, "Based on the information I have received regarding Mr. Dishner's job history and employment activities at Continental Tire of North America and pending review of repeat bilateral upper extremity nerve conduction studies, it is my opinion, with a reasonable degree of medical certainty, that his work there has contributed at least in part to the development of his bilateral upper extremity symptoms."

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On April 5, 2007, Dr. Dehghan performed a left carpal tunnel release and left cubital tunnel release with anterior submuscular transposition of the ulnar nerve at Edwardsville Ambulatory Surgery Center. According to the operative report, Dr. Dehghan released the anconeus epitrochlearis muscle overlying the cubital tunnel and then released the cubital tunnel. He then traced the ulnar nerve distally between the two heads of the flexor carpi ulnaris muscle and released very tight fascial bands overlying the nerve. He continued into the forearm and then traced the nerve proximally from the cubital tunnel into the distal arm. All points of compression were released. Dr. Dehghan noted the ulnar nerve to appear severely injected and compressed under the released tissues. Next, Dr. Dehghan performed the ulnar nerve transposition. Finally, he turned his attention to the release of the carpal tunnel and concluded the surgical procedure.

On April 26, 2007, Dr. Dehghan performed a right carpal tunnel release and right cubital tunnel release at Edwardsville Ambulatory Surgery Center. According to the operative report, Dr. Dehghan released the subcutaneous tissue down to the right cubital tunnel and then the tunnel was released. He then traced the nerve distally between the two heads of the flexor carpi ulnaris muscle and released the very tight fascial bands overlying the nerve. He continued into the proximal forearm and traced the ulnar nerve proximally from the cubital tunnel to the distal arm. All points of compression were released and Dr. Dehghan noted the ulnar nerve to be injected and compressed. After release of the ulnar nerve at the elbow, Dr. Dehghan turned his attention to the volar aspect of the right hand and found the median nerve to be injected and compressed. He released the same.

Following surgery, petitioner remained off from work and underwent a course of physical therapy at Heartland Rehabilitation.

Petitioner returned to work at Continental Tire North America, Inc. and his right lateral elbow tenderness returned. On July 3, 2007, Dr. Dehghan found tenderness to palpation over the right lateral epicondyle area and a steroid injection was recommended. Dr. Dehghan provided petitioner with Motrin.

On September 18, 2007, Dr. Dehghan noted continued complaints of increasing right lateral elbow tenderness. An injection into the right lateral epicondyle area was performed and Dr. Dehghan restricted the petitioner to light duty with no use of the right upper extremity until September 24, 2007.

On October 31, 2007, petitioner saw Dr. Dehghan indicating that the numbness and tingling in his hands had completely resolved since the operation. Dr. Dehghan advised petitioner that as far as the right lateral epicondylitis, there is a possibility of reoccurrence and petitioner may require procedures in the future. Dr. Dehghan released petitioner from his care.

Petitioner testified that the medical bills submitted at arbitration were related to the care and treatment received by him for his bilateral hands and elbows. Petitioner further testified that the mileage incurred by him listed on the mileage log submitted at arbitration accurately reflected the mileage he incurred while seeking care and treatment for his hands and elbows. Petitioner testified that he chose to treat with Dr. Dehghan based upon the fact that Dr. Dehghan is a plastic surgeon and the petitioner had seen the results of Dr. Dehghan's surgeries performed on other co-workers. Petitioner also

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noted that some of his co-workers had gone to local physicians and did not have successful surgery outcomes.

At arbitration, petitioner testified that he continues to have pain and discomfort in both of his hands. He notices difficulties with the use of his hands when using hand tools like screw drivers. He notes that he fumbles with the use of his hands. He has difficulty maintaining a grip with the use of his hands and no longer has the grip strength or endurance to participate in outdoor boating activities. Although petitioner lives on a lake, he does not use his jet ski because of the difficulty he has with gripping. He notices a decrease in his grip strength. He also notices difficulties opening jars because of his loss of grip strength. With regard to his elbows, petitioner testified that whenever he is lifting tread or carcasses at his work, he notices increased symptoms in both of his elbows. Whenever he tries to lift something with his palms down, he experiences burning pain in his forearms. He notices an increase in elbow discomfort with weather changes. His hands get cold easier. He has stiffness in his right arm. Petitioner testified that he takes Ibuprofen daily at his work due to hand and elbow pain. He does not take the Ibuprofen for any other condition and did not take Ibuprofen prior to his injuries to his hands and elbows.

Petitioner testified that he has had no prior or subsequent injuries to either of his hands or elbows. He has not had any prior workers' compensation claims.

**Therefore, the Arbitrator concludes:**

1. As a result of the accident of April 21, 2006, the petitioner sustained 20% permanent partial disability of the right arm, 20% permanent partial disability of the right hand, 20% permanent partial disability to the left arm and 20% permanent partial disability to the left hand.
2. Medical bills totaling \$993.16 are reasonable, necessary and causally related to petitioner's work-related injuries. The following medical bills are hereby awarded:

<u>Medical Provider(s) / Dates of Service</u>	<u>Amount</u>
James O. Alexander, M.D. 04/21/06-05/19/06 (Petitioner paid \$35.00)	\$120.00
The CT and Open MRI Center 04/21/06	731.00
Khash Dehghan, M.D. 07/03/07-10/31/07	132.16
Walgreens Pharmacy 04/05/07 (Petitioner paid \$10.00)	<u>10.00</u>
Total Amount of Medical Bills	\$993.16

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

- 3. 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 3,205 miles for his medical care and treatment. The Arbitrator awards 3,205 miles, which equals \$1,472.78 as calculated below:

<u>Dates of Rates</u>	<u>Rate</u>	<u>Miles</u>	<u>Amount</u>
07/01/06 thru 06/30/07	.445	2,041	\$ 908.24
07/01/07 thru present	.485	<u>1,164</u>	<u>564.54</u>
Total		3,205	\$1,472.78

Respondent shall receive credit for all amounts previously paid.