

STATE OF ILLINOIS)
) SS.
COUNTY OF SCOTT)

<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

Sarah Wickenhauser,
Petitioner,

vs.

NO: 06WC 11821

Computer Science Corporation,
Respondent,

11IWCC0213

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, temporary total disability, permanent partial disability, causal connection, medical and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission modifies the Arbitrator's Decision, decreasing Petitioner's permanent partial disability award from 30% to 25% of the right arm pursuant to Section 8(e) of the Act. All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$251.25 per week for a period of 116 4/7 weeks, that being the period of temporary total incapacity for work under §8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$226.13 per week for a period of 163.25 weeks, as provided in §8(e) of the Act, for the reason that the injuries sustained caused the loss of use to the extent of 35% of the right hand, 20% of the left hand and 25% of the right arm.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of \$365.00 for medical expenses under §8(a) of the Act.

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

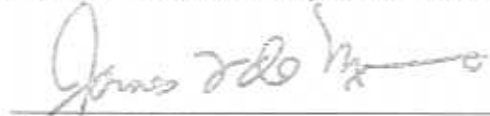
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11IWCC0213

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 \$47,000.00. 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: MAR 1 - 2011
o012711
JFD/jrc
052



James F. DeMunno



Mario Basurto



David L. Gore

ILLINOIS WORKERS' COMPENSATION COMMISSION
NOTICE OF ARBITRATOR DECISION

WICKENHAUSER, SARAH

Employee/Petitioner

Case# 06WC011821

COMPUTER SCIENCE CORPORATION

Employer/Respondent

11IWCC0213

On 11/12/2009, 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 0.16% 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:

JOHN WINTERSCHIEDT
219 PIASA ST
PO BOX 8338
ALTON, IL 62002

0332 LIVINGSTONE MUELLER ET AL
HAXEL, MARTIN
P O BOX 335
SPRINGFIELD, IL 62705

STATE OF ILLINOIS)
)
COUNTY OF Scott)

<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

ILLINOIS WORKERS' COMPENSATION COMMISSION ARBITRATION DECISION

Sarah Wickenhauser

Employee/Petitioner

v.

Computer Science Corporation

Employer/Respondent

Case # **06 WC 11821**

Winchester

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 **Winchester**, on **9/16/09**. 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 _____

11IWCC0213

FINDINGS

- On **6/03/04**, the respondent **Computer Science Corporation** 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.
- In the year preceding the injury, the petitioner earned \$ **19,597.76**; the average weekly wage was \$ **376.88**.
- At the time of injury, the petitioner was **41** years of age, *single* with **0** children under 18.
- Necessary medical services *have in part* been provided by the respondent.
- To date, \$ **19,487.18** has been paid by the respondent for TTD and/or maintenance benefits.

ORDER

- The Respondent shall pay the Petitioner temporary total disability benefits of \$ **251.25**/week for **116-4/7ths** weeks, from **7/15/04** through **8/9/04**; **9/21/04** through **11/1/04**; **11/3/04** through **11/18/04**; **4/1/05** through **4/8/05**; **4/21/05** through **5/21/05**; **7/15/05** through **3/21/06** and **6/22/06** through **9/14/07**, which are the periods of temporary total disability for which compensation is payable. Respondent is entitled to **credit in the amount of \$19,487.18**.
- The Respondent shall pay the Petitioner the sum of \$ **226.13**/week for a further period of **175** weeks, as provided in Section **8(e)** of the Act, because the injuries sustained caused **a loss of use to the extent of 35% right hand, 20% left hand and 30% right arm**.
- The Respondent shall pay the Petitioner compensation that has accrued from **6/03/04** through **9/16/09**, and shall pay the remainder of the award, if any, in weekly payments.
- The Respondent shall pay the further sum of \$ **see attached findings** for necessary medical services, as provided in Section 8(a) of the Act and consistent with the medical fee schedule.
- The respondent shall pay \$ **0** in penalties, as provided in Section 19(k) of the Act.
- The respondent shall pay \$ **0** in penalties, as provided in Section 19(l) of the Act.
- The respondent shall pay \$ **0** 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.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* 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

11/10/09

Date

Wickenhauser #06 WC 11821

The Arbitrator finds the following facts regarding all disputed issues:

Petitioner testified that she was employed by the Respondent since approximately 2000 or 2001. She was a customer service representative working 35 hours per week and 5 days per week. Petitioner's job duties included keyboarding, sorting papers, using staplers and staple removers, filing documents and lifting boxes out of the supply room 2 or 3 times per week. The single job task she performed the most was keyboarding. In order to reach the boxes out of the supply room she would have to reach above her head. These boxes were full of policy jackets and she estimated that each box weighed 15 to 20 lbs. She was not positive about how much each box weighed. Petitioner is left handed but is somewhat ambidextrous.

Petitioner further testified that whenever she was placed on any restrictions the Respondent accommodated her restrictions and had her work as a receptionist answering the phone. This was one-handed work that only required her to use the one hand to push the buttons necessary to transfer a call. Petitioner admitted that most of the time her call volume was light and she had lots of down time where she did nothing.

Petitioner testified that her job involved keyboarding, sorting papers, using staplers, filing papers, and lifting boxes two to three times per week. Petitioner worked 35 hours per week. Petitioner stated that of all her job tasks, keyboarding was the predominant task. That was not disputed by Respondent witness Chambers. There was no evidence indicating how much time was spent performing any given task.

Based upon the foregoing the Arbitrator concludes that the Petitioner proved accident. Petitioner proved that keyboarding was repetitive.

Petitioner was first diagnosed and treated for bilateral carpal tunnel syndrome in June of 2004 and had 5 decompression surgeries in July (right side) and September (left side) of that year (PX1). Dr. Rotman, Respondent's Section 12 Examiner, opined that the carpal tunnel syndrome was work-related. The Arbitrator concludes that the carpal tunnel condition for both right and left wrist is causally connected to her work accident.

On July 15, 2005 petitioner underwent surgery by Dr. Leutz. The primary purpose of the surgery was to address petitioner's right shoulder complaints which were first documented in an office visit note dated 5/6/05 (PX1). The post-surgical diagnosis for petitioner's shoulder condition was impingement syndrome, AC chondrosis and a superior labral tear of the right shoulder (PX2, Report of Operation dated 7/15/05). There is no evidence of any acute trauma. ^{W/D} _{CK}

The Arbitrator notes that the only causal connection opinion regarding Petitioner's shoulder condition comes from Dr. Rotman. He opined that Petitioner did not perform any repetitive, overhead lifting so that her job duties did not cause or aggravate her right shoulder condition (RX2, p. 11, 12, p. 9 of Dep. Exhibit 2).

Dr. Hansen performed surgery on Petitioner's right elbow in October of 2006 and all of his opinions pertained 5 to the Petitioner's right elbow and no other body part (PX6, pp. 19, 20). The Arbitrator concludes that Petitioner's right shoulder condition is not causally connected to her employment with the Respondent.

Petitioner underwent surgery on 7/15/05 for de Quervain's syndrome on her right thumb. Petitioner first sought 5 medical treatment for pain in her right thumb on 3/2/05 approximately 2 ½ months after she had been released from care by Dr. Leutz after bilateral surgeries for carpal tunnel syndrome (PX1). Prior to March of 2005 petitioner had been working full duty. After seeing Dr. Leutz on 3/2/05 therapy was ordered and a physical therapist note dated 3/14/05 indicates petitioner was working light duty 6 hours per day (PX2).

11IWCC0213

No causal connection opinion has been rendered by any of Petitioner's treating doctors specifically for the de Quervain's syndrome. The Arbitrator determined that Petitioner's keyboarding at work was a repetitive job task that caused her carpal tunnel syndrome. Dr. Leutz indicated in his office visit note of 3/2/05 that Petitioner uses the computer a lot at work. The Arbitrator finds that Petitioner's de Quervain's syndrome and resulting surgery are causally connected to her job duties.

When Petitioner first sought medical treatment on 6/10/04 for her carpal tunnel syndrome Dr. Leutz also diagnosed her as having cubital tunnel syndrome (PX1) which was considered mild after EMG testing was performed on 6/17/04 (PX5). Dr. Leutz' physical examination on that date revealed a full range of motion of the elbow and an absence of any pain or tenderness on either the medial or epicondylar areas. Dr. Leutz treated Petitioner for her carpal tunnel syndrome. He mentioned cubital tunnel syndrome one other time and released Petitioner from his care on 12/15/04 (PX1). From 7/15/04 through 11/18/04 Petitioner was off work and receiving TTD benefits.

When Petitioner returned to see Dr. Leutz on 3/2/05 she was complaining of numbness in both arms and forearms with right elbow pain radiating up into her neck (PX1). Another EMG was performed on 4/25/05 and when Dr. Leutz performed surgery on Petitioner's right shoulder and right thumb on 7/15/05 he also injected the right elbow (PX5; PX2).

Records from Petitioner's family physician, Dr. Hale, indicate that Petitioner saw him on 4/6/05 complaining of back pain for the past two weeks because she had carried plywood at home and also was carrying her grandchild (RX5). Dr. Hale's records also indicate that Petitioner called the doctor on 4/29/05 because she had mowed the grass the day before and had neck pain (RX5).

Petitioner also testified that she bought her current house in Winchester in 2004 or 2005 stating that the house was old and needed lots of work but adding that she could not do very much of it. Petitioner denied doing any painting or drywalling. Petitioner also denied doing any gardening.

After Petitioner began working light duty with her left hand in March of 2005 she was completely off work from 4/21/05 through 5/21/05 and again from 7/15/05 through 3/21/06 pursuant to the trial stipulation sheet. Petitioner's employment with respondent ended on 10/13/06 after she had been off work continuously for a 12 month period beginning on 10/13/05 (PX7; RX4). Since March 2005 Petitioner never worked full duty again.

Dr. Leutz performed surgery on 1/6/06 for radial tunnel syndrome, posterior osseous nerve entrapment syndrome, Wartenberg's syndrome and lateral epicondylitis of the right elbow, Petitioner still had significant symptoms so she was referred to Dr. Mark Greatting for a second opinion (PX1). Dr. Greatting saw Petitioner on 5/4/06. Petitioner complained that she thought she had gotten worse (PX3). After looking at another EMG test performed by Dr. Trudeau on 5/18/06, Dr. Greatting concluded that the etiology of her ongoing pain was uncertain and doubted that any additional surgery would help (PX3, office visit note of 6/2/06).

Petitioner was examined by Dr. Rotman at the request of the Respondent on 10/9/06. As a part of this examination an EMG test was conducted by Dr. Phillips and this test was negative. Dr. Rotman was provided with medical records from doctors Leutz, Greene, Trudeau, Hale, Greatting and Hansen. Dr. Rotman concluded that if Petitioner's job duties were really repetitive, then her right carpal tunnel syndrome would be work-related (RX2, Dep. Ex. 2, p. 9). With regard to Petitioner's arm, shoulder and elbow conditions Dr. Rotman concluded that there was no causal connection because her work activities were not repetitive. Dr. Rotman indicated that if Petitioner typed over 4 hours per day that would be considered a repetitive job task and that Petitioner's job duties might possibly aggravate the elbow and forearm conditions (RX2, p. 25, 27, 28; Deposition Ex. 2, p. 9). He also stated that Petitioner's activities outside of work (as evidenced by Dr. Hale's records) could have aggravated a lot of her symptoms (RX2, Deposition Ex. 2, p. 9).

Petitioner's first EMG test on 6/17/04 was positive for right ulnar neuropathy (cubital tunnel). Petitioner's second EMG test was on 4/25/05 and was positive for cubital tunnel syndrome worse than before. Petitioner did miss some work during that time period. This test also diagnosed Wartenberg's syndrome for the first time.

Petitioner's next EMG test with Dr. Trudeau occurred on 9/19/05. According to the trial stipulation sheet petitioner was completely off work from 7/15/05 until 3/26/06. This EMG was positive for a new diagnosis of PINS/radial tunnel syndrome since the preceding EMG. Petitioner's fourth EMG test with Dr. Trudeau was on 5/18/06 after her referral to see Dr. Greatting. This test was again positive for cubital tunnel but worse since September despite the fact that she had not been working at all since that time. The PIN/radial tunnel syndrome was the same. These latter two tests also indicated the presence of Wartenberg's syndrome.

Dr. Hansen testified (PX6). Dr. Hansen first treated Petitioner in June of 2006 upon referral from Dr. Greatting and performed surgery on 10/13/06 for recurrent radial tunnel syndrome, cubital tunnel syndrome and a symptomatic neuroma due to scarring (PX6, p. 10). Dr. Hansen testified that he thought it was possible for Petitioner's job duties to have contributed to her compressive neuropathies (PX6, p. 35). Sleebw

Dr. Hansen did not review any records from doctors Leutz, Hale, Trudeau, Greene, or Greatting. He had no operative reports. The knowledge of Petitioner's job duties came from Petitioner herself (PX6, p. 21). Dr. Hansen was also asked a hypothetical regarding Petitioner's job duties and he opined that the activity might contribute to compressive neuropathies (PX6, p. 34,35). Dr. Hansen also testified that in some cases the causes of compressive neuropathies are idiopathic and that Petitioner might be one of those persons who are simply susceptible to having these problems. Dr. Hansen also opined that Petitioner's absence from work might cause her symptoms to improve (PX6, p. 24, 25, 30 and 31).

The evidence presented indicated that Petitioner's primary job duty was keyboarding. That was not disputed. The Arbitrator infers from the evidence that would constitute at least 4 hours of her 7 hour workday duties. The opinions of Dr. Hansen and Dr. Rotman are somewhat consistent in that they opine that such repetitive duties could aggravate the conditions of ill-being in Petitioner's right elbow and forearm. The Petitioner's right elbow and forearm conditions including de Quervain's were causally connected to her repetitive work activity. The opinion of Dr. Rotman regarding the right shoulder condition is persuasive. Petitioner did not meet her causation burden of proof regarding the right shoulder condition of ill-being. The treatment and surgery for the right shoulder were not causally related to work.

Respondent admitted, through witness Chambers, that it received timely notice as to Petitioner's carpal tunnel syndrome but not any other medical condition. Respondent presented no evidence of undue prejudice. Notice to Respondent in this case was proper.

The trial stipulation sheet indicated that Petitioner was off work from 7/15/04 through 8/9/04 and from 9/21/04 through 11/1/04. Petitioner was also off work from 11/3/04 through 11/18/04. All of these absences were necessitated by Petitioner's recovery from her surgeries for carpal tunnel syndrome. Petitioner is entitled to TTD benefits for these periods of time which totaled 11-4/7ths weeks.

Petitioner began receiving medical treatment for pain to her right thumb and right wrist on 3/2/05. The trial stipulation sheet indicates that Petitioner was off work from 4/1/05 through 4/8/05 and again from 4/21/05 through 5/21/05. Petitioner is entitled to TTD benefits for these periods of time which total 5-2/7ths weeks.

Petitioner underwent surgery for her de Quervain's syndrome on 7/15/05. She had surgery for her right shoulder condition at the same time and received an injection into her right elbow. The shoulder condition was not work-related. In an office visit note dated 8/11/05 Petitioner reported no pain, swelling or stiffness in her right wrist. In a follow up visit with Dr. Leutz on 9/12/05 Petitioner's right wrist and hand was noted to be pain free with a

weak grip. Dr. Leutz directed his attention to Petitioner's right elbow and shoulder complaints and did not list any diagnosis for her right thumb or wrist as of that September office visit. Petitioner continued with right elbow treatment and was kept off work per Dr. Leutz through 3/21/06 (PX1).

The Arbitrator concludes that Petitioner's entitlement to TTD benefits after her surgery for de Quervain's syndrome on 7/15/05 and elbow surgery on 1/06/06 runs from 7/15/05 through 3/21/06, a period of 35-4/7ths weeks.

Lastly Petitioner was off work per Dr. Hansen from 6/22/06 through 9/14/07 for treatment related to the right elbow primarily (PX4). Petitioner is entitled to TTD for that period which consists of 64-1/7ths weeks.

Consequently, Respondent shall pay to Petitioner TTD benefits at the rate of \$251.25 per week for a total of 116-4/7ths weeks.

The parties have stipulated that Respondent is entitled to credit for TTD previously paid totaling \$19,487.18.

Petitioner's Exhibit #8 consists of unpaid medical bills. Respondent's Exhibit #1 indicates all medical bills paid to date by the Respondent. As previously determined, Petitioner's right shoulder treatment including surgery was not causally connected to any work accident. Respondent is responsible for payment of said bills to the extent that those are related to treatment of the right elbow, forearm and hands including de Quervain's. Payments shall be made consistent with the medical fee schedule for any treatment rendered after 2/01/06. Respondent is entitled to credit for any of the awarded medical expenses that it has previously paid. Respondent is not entitled to credit for any payments made by any group health insurer which was not provided by Respondent. Respondent shall hold Petitioner harmless from any claims made by any third party health insurers for reimbursement.

Petitioner testified at arbitration that she still has problems using both of her hands. She still has very weak grip strength and she finds typing almost impossible for her to do for any length of time. Petitioner had surgery for carpal tunnel syndrome on both hands. Petitioner had surgery for the treatment of de Quervain's syndrome in July 2005 with regard to her right thumb. The Petitioner had an injection and surgeries performed on her right elbow/forearm as previously discussed. She still has pain in her elbow on top and sometimes on the bottom. She has pain from her forearm to her right thumb. Her elbow pain increases with activity.

Therefore the Arbitrator, in summary, concludes:

1. Petitioner proved accident and causation as more fully set forth in the findings. Petitioner did not prove causation regarding her right shoulder condition.
2. TTD and medical bills are awarded as more fully set forth in the findings. Awarded bills for services rendered after 2/01/06 shall be paid in accordance with the fee schedule and those before that date shall be paid in their entirety.
3. Petitioner provided proper notice to Respondent.
4. Petitioner sustained a loss of use of 20% left hand, 35% right hand and 30% right arm (elbow).