

TEMPORARY OR PARTIAL AWARD  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 02-082811

Employee: Richard Bigham  
Employer: Building Technology Engineers, Inc.  
Insurer: American Casualty Company of Reading, PA  
Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund (Open)  
Date of Accident: May 1, 2002  
Place and County of Accident: Kansas City, Jackson County, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission for review as provided by section 287.480 RSMo, which provides for review concerning the issue of liability only. Having reviewed the evidence and considered the whole record concerning the issue of liability, the Commission finds that the award of the administrative law judge in this regard is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms and adopts the award and decision of the administrative law judge dated December 27, 2007.

This award is only temporary or partial, is subject to further order and the proceedings are hereby continued and kept open until a final award can be made. All parties should be aware of the provisions of section 287.510 RSMo.

The award and decision of Administrative Law Judge R. Carl Mueller, issued December 27, 2007, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 29th day of May 2008.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary

Issued by THE LABOR AND INDUSTRIAL RELATIONS COMMISSION

TEMPORARY OR PARTIAL AWARD  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 02-121116

Employee: Richard Bigham

Employer: Building Technology Engineers, Inc.

Insurer: American Casualty Company of Reading, PA

Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund (Open)

Date of Accident: June 1, 2002

Place and County of Accident: Kansas City, Jackson County, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission for review as provided by section 287.480 RSMo, which provides for review concerning the issue of liability only. Having reviewed the evidence and considered the whole record concerning the issue of liability, the Commission finds that the award of the administrative law judge in this regard is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms and adopts the award and decision of the administrative law judge dated December 27, 2007.

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John J. Hickey, Member

Attest:

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Secretary

Issued by THE LABOR AND INDUSTRIAL RELATIONS COMMISSION

TEMPORARY OR PARTIAL AWARD  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 03-141532

Employee: Richard Bigham

Employer: Building Technology Engineers, Inc.

Insurer: American Casualty Company of Reading, PA

Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund (Open)

Date of Accident: September 22, 2003

Place and County of Accident: Kansas City, Jackson County, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission for review as provided by section 287.480 RSMo, which provides for review concerning the issue of liability only. Having reviewed the evidence and considered the whole record concerning the issue of liability, the Commission finds that the award of the administrative law judge in this regard is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms and adopts the award and decision of the administrative law judge dated December 27, 2007

This award is only temporary or partial, is subject to further order and the proceedings are hereby continued and kept open until a final award can be made. All parties should be aware of the provisions of section 287.510 RSMo.

The award and decision of Administrative Law Judge R. Carl Mueller, issued December 27, 2007, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 29th day of May 2008.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary

**TEMPORARY AWARD**

Employee: Richard Bigham Injury Nos: 02-082811  
02-121116  
03-141532

Dependents: N/A

Employer: Building Technology Engineers Inc.

Additional Party: Treasurer of the State of Missouri as the Custodian of the Second Injury Fund

Insurer: American Casualty Company of Reading, PA

Hearing Date: November 19, 2007

Briefs Filed: December 04, 2007 Checked by: RCM/rm

**FINDINGS OF FACT AND RULINGS OF LAW**

1. Are any benefits awarded herein? Yes
2. Was the injury or occupational disease compensable under Chapter 287? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of accident or onset of occupational disease: May 1, 2002 (02-082811), June 1, 2002 (02-121116), and September 22, 2003 (03-141532).
5. State location where accident occurred or occupational disease was contracted: Kansas City, Jackson County, Missouri
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Not applicable; pre-August 28, 2005 claims.
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
9. Was claim for compensation filed within time required by Law? Yes

10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted: Employee's repetitive work with his upper extremities resulted in bilateral shoulder injuries as well as carpal tunnel syndrome.
12. Did accident or occupational disease cause death? No                      Date of death? N/A
13. Part(s) of body injured by accident or occupational disease: Bilateral upper Extremities
14. Nature and extent of any permanent disability: Not Determined
15. Compensation paid to-date for temporary disability: None
16. Value necessary medical aid paid to date by employer/insurer? None
17. Value necessary medical aid not furnished by employer/insurer? N/A
18. Employee's average weekly wages: Not Determined
19. Weekly compensation rate: 02-082811: \$628.90/\$329.42; 02-121116: \$628.90/\$329.42; 03-141532: \$662.55/\$347.05
20. Method wages computation: By stipulation
21. Amount of compensation payable: None
22. Second Injury Fund liability: None
23. Future requirements awarded: All medical treatment as may reasonably be required to cure and relieve Mr. Bigham from the effects of his injuries.

## **FINDINGS OF FACT and RULINGS OF LAW:**

Employee: Richard Bigham Injury No: 03-141532  
Dependents: N/A  
Employer: Building Technology Engineers Inc.  
Additional Party: Treasurer of the State of Missouri as the Guardian of the Second Injury Fund  
Insurer: American Casualty Company of Reading, PA  
Hearing Date: November 19, 2007  
Briefs Filed: December 04, 2007 Checked by: RCM/rm

On November 19, 2007, the employee and employer appeared for a temporary hearing. The employee, Mr. Richard Bigham, appeared in person and with counsel, David A. Slocum. The employer appeared through counsel, Tom Hill. The Second Injury Fund is a party to the case, but was not represented at the hearing as no issue involved it in this temporary hearing. The Division has jurisdiction to hear this case pursuant to §287.110. The primary issues the parties request the Division to determine are whether: (1) Mr. Bigham sustained an occupational disease arising out of and in the course of his employment; and (2) Building Technology Engineers, Inc. must provide the employee with additional medical care. For the reasons noted below, I find that all three of Mr. Bigham's claimed occupational diseases are compensable. I also find that Building Technology Engineers, Inc./American Casualty Company of Reading, PA., is liable to provide Mr. Bigham with all treatment as may reasonably be required to cure and relieve Mr. Bigham from the effects of his occupational disease pursuant to RSMo. § 287.140.

### **STIPULATIONS**

The parties stipulated that:

- On or about September 22, 2003 ("the injury date"), Building Technology Engineers, Inc. ("BTE") was an employer operating subject to Missouri's Workers' Compensation law with its liability fully insured by American Casualty Company of Reading, PA.;
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- Mr. Bigham was its employee working subject to the law in Kansas City, Jackson County, Missouri;
- Mr. Bigham notified BTE of his alleged injury and filed his claim within the time allowed by law; and
- 
- BTE has not provided Mr. Bigham with any benefits under the applicable Missouri Workers' Compensation statutes.

- Mr. Bigham earned an average weekly wage sufficient to qualify for the maximum compensation rates for both temporary total and permanent partial disability benefits.

## ISSUES

The parties requested the Division to determine:

- Whether Mr. Bigham sustained an occupational disease arising out of and in the course of his employment?
- Whether BTE/American Casualty Company of Reading, PA is liable for additional medical care?

## FINDINGS OF FACT

Mr. Bigham testified on his own behalf and presented the following exhibits, all of which were admitted into evidence without objection:

- Exhibit A - Medical Report, P. Brent Koprivica, MD, 01/07/2005.
- Exhibit B - Medical Records, Rockhill Orthopedics
- Exhibit C - Medical Records, Family Care of Independence
- Exhibit D - Medical Records, Jackson County Orthopedics
- Exhibit E - Medical Records, John Collins, MD
- Exhibit F - Medical Records, Diagnostic Imaging
- Exhibit G - Medical Records, Midwest Neuroscience
- Exhibit H - Original Claim for Compensation, 02-12116
- Exhibit I - Receipt of Claim for Compensation, 02-12116, 10/16/2003
- Exhibit J - Original Claim for Compensation, 03-141532
- Exhibit K - Receipt of Claim for Compensation, 03-141532, 05/03/2004
- Exhibit L - Withdrawn
- Exhibit M - Withdrawn
- Exhibit N - Handwritten list of Complaints 11-17/2007

BTE/ American Casualty Company of Reading, PA did not present any additional evidence.

Based on the above exhibits and the testimony of Mr. Bigham, I make the following findings.

Mr. Bigham is a 57 year-old male who currently resides in Independence, Missouri. Mr. Bigham's chosen profession is and for the last 30 years has been an operating engineer. Mr. Bigham has performed his occupation at 2435 Grand, Jackson County, Missouri since essentially the building's creation approximately 30 years ago.

As an Operating Engineer, Mr. Bigham is in essence the building's handy man. Mr. Bigham testified his job duties included various tasks such as: repairing equipment; performing electrical work; repairing plumbing; repairing

air conditioning duct work; replacing light bulbs; unloading shipments of various supplies; mopping work areas; snow removal; irrigation system repair; and tenant maintenance. In performing these tasks, Mr. Bigham often used a variety of different hand tools which required him to repetitively move and use his upper extremities. For example, he used: screw drivers; nut drivers; ratchets; hammer drills; and rivet guns. Mr. Bigham testified the hammer drill and rivet guns also vibrated during use. Mr. Bigham further testified that his job duties have more or less stayed the same over the last 30 years.

Despite the fact that Mr. Bigham has worked in the same location over the last 30 years, he has been employed by several different companies. Mr. Bigham is currently an employee of Hines Co.; and, has been since approximately April, 2004. Prior to working for Hines, Mr. Bigham was an employee of BTE. He testified he worked for BTE from approximately November 2001 to April of 2004. Immediately prior to this time, Mr. Bigham worked for a company named Shorenstein.

Mr. Bigham first discussed physical problems relating to his upper extremities with his doctor on June 06, 2001. At that time, Mr. Bigham voiced the following complaints to Dr. Hartley, "he states that he is having pain, which radiates from the neck into the arm...He states he has noticed weakness in the bilateral upper extremity and this is non-specific pain to any particular motor group." On physical examination, Dr. Hartley noted decreased grip strength bilaterally, mild to moderate tenderness over the anterior acromion, right greater than left shoulder, and pain with resisted flexion of the elbow, as well as, supination of the forearm, right greater than left. Dr. Hartley did not render any specific diagnoses.

On August 16, 2001, Mr. Bigham returned for treatment related to his upper extremities. On that date, Mr. Bigham was evaluated by Dr. Donohoe, and complained of pain and soreness in his arms and hands. Dr. Donohoe felt electrodiagnostic studies to rule out carpal tunnel syndrome or myopathy would be appropriate. Mr. Bigham had an EMG performed by Dr. Bremen on August 29, 2001. The EMG was interpreted by Dr. Bremen as an "abnormal examination of the bilateral upper extremities consistent with moderately severe carpal tunnel syndrome." Mr. Bigham returned to Dr. Donohoe on August 29, 2001 for evaluation due to numbness in his hands. Based on the results of the EMG performed by Dr. Bremen, Dr. Donohoe recommended "conservative measures such as anti-inflammatories, followed by use of a wrist splint." Dr. Donohoe specifically opined that he did "not feel [Mr. Bigham] needs surgery unless his symptoms become very severe or painful."

On October 17, 2001, Mr. Bigham returned to Dr. Hartley with complaints of "bilateral numbness and tingling in his hands, which is awakening him at night. [Mr. Bigham] states that during the day he has numbness and tingling, as well as discomfort." On physical examination, Mr. Bigham had positive Phalens and positive Tinels at his bilateral wrists, and decreased light touch on the 1st through 4th fingers. At this point, Dr. Hartley recommended the use of bilateral night splints.

On November 29, 2001, Mr. Bigham presented to Dr. Nelson with complaints of significant left shoulder discomfort. Mr. Bigham communicated that his complaints worsened with activities and at night. Dr. Nelson felt at that time, that Mr. Bigham possibly had left shoulder tendonitis, and should return to Dr. Hartley. From November 29, 2001 to March 6, 2002, Mr. Bigham received conservative treatment to his wrists and shoulders. In fact, on February 4, 2002, Mr. Bigham was evaluated by Dr. Collins for tingling and numbness in both hands and nocturnal pain. At that time, Mr. Bigham related that his symptoms were aggravated by working with his hands at shoulder level or above.

On March 06, 2002, Mr. Bigham was evaluated by Dr. Collins with complaints of disabling pain about both shoulders, worse on the left. At that point, Dr. Collins recommended that Mr. Bigham undergo MRI scans of both shoulders, which were done on March 19, 2002. The MRI of the left shoulder revealed a "partial articular surface tear of the anterior, mid and posterior fibers of the supraspinatus tendon near the tendon insertion." The MRI of the right shoulder revealed "degeneration of the distal supraspinatus tendon without evidence of a definite tear," as well as, "acromioclavicular joint degenerative changes."

Following the MRI scans, Mr. Bigham returned to Dr. Collins on March 27, 2002. On that date, Dr. Collins stated that "[Mr. Bigham] will require surgical care of both shoulders and wrists," and Dr. Collins stated Mr. Bigham was to schedule the first surgeries. This was the first time any doctor recommended proceeding with surgical

intervention for Mr. Bigham's upper extremities. To date, Mr. Bigham has not had the treatment recommended by Dr. Collins.

For his conditions, Mr. Bigham filed a claim for compensation on his own behalf with the Division of Workers' Compensation on September 29, 2003. Receipt of this claim was acknowledged on October 16, 2003. In his claim, Mr. Bigham alleged "Carpal Tunnel-both wrists, Rotator Cuff Tear-Left Shoulder, Shoulder Impingement-Right Shoulder; and, that these conditions were the result of no specific accident." Mr. Bigham later hired The Eppright Law Office to represent him on his claim. On Mr. Bigham's behalf, The Eppright Law Office filed a claim with the Division of Workers' Compensation alleging a series of accidents up to September 22, 2003. This claim for compensation was received by the Division on April 30, 2004, and acknowledged by the Division on May 03, 2004. In this claim, Mr. Bigham alleged that "in the course and scope of his employment as an operating engineer, he was required to repetitively lift bags of sand and pump motors, unloaded and delivered boxes of supplies, shoveled snow and dirt, used pop rivet guns and hammer drills, and continually reached overhead to service air conditioning and heating systems. Said process resulted in an unusual amount of stress and strain to both upper extremities."

Mr. Bigham was evaluated by Dr. Koprivica on January 7, 2005. Based on his evaluation, Dr. Koprivica opined that:

1. Mr. Bigham's work activities as a building operating engineer represent upper extremity use activities that are unique to his employment. Mr. Bigham does not use his upper extremities to this extent away from work. The general population is not exposed to this upper extremity use. The nature of his upper extremity use activities are competent to result in cumulative injury.

It is my opinion that Mr. Bigham's work activities are a substantial factor in the development of bilateral carpal tunnel syndromes as well as bilateral chronic impingement syndromes. There is also symptomatic acromioclavicular arthralgia bilaterally. There is also a risk of partial rotator cuff injury based on these conditions.

*See*, Claimant's Exhibit A at 11.

Dr. Koprivica went on to conclude Mr. Bigham was not at maximum medical improvement for his conditions. Dr. Koprivica recommended: repeat electrodiagnostic studies; possible surgical release of both wrists; referral to shoulder specialist; and, consideration of conservative care for Mr. Bigham's shoulders. *Id.* at 12 (¶¶ 3 and 4).

The employer – which did not present any evidence or testimony – apparently based its denial of Mr. Bigham's claims on Dr. Koprivica's legal analysis and interpretation of the "last exposure rule". *See*, Claimant's Exhibit A at 11-12 (¶ 2). However, Dr. Koprivica is a medical doctor – not a juris doctor – and I completely disregard his legal conclusions.

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## RULINGS OF LAW

The first issue to be determined by this Court is whether Mr. Bigham sustained an occupational disease arising out of and in the course and scope of his employment at BTE up to September 22, 2003. Based on the testimony of Mr. Bigham and the medical evidence provided by the parties, I find that Mr. Bigham did sustain a compensable occupational disease arising out of and in the course and scope of his employment at BTE up to September 22, 2003.

The question of whether Mr. Bigham sustained a compensable occupational injury at BTE is truly a multifaceted inquiry. First, the Court must determine if Mr. Bigham's work activities are the medical cause of his physical complaints. Next, the Court must determine which, if any, of Mr. Bigham's multiple employers is liable for benefits.

According to RSMo. § 287.067(2), "An occupational disease is compensable if it is clearly work related and

meets the requirements of an injury which is compensable as provided in subsections 2 and 3 of section 287.020.” According to RSMo. § 287.020(2), “An injury is compensable if it is clearly work related. An injury is clearly work related if work was a substantial factor in the cause of the resulting medical condition or disability.” RSMo. § 287.020(3)(1) adds that, “...injury is hereby defined to be an injury which has arisen out of and in the course scope employment. The injury must be incidental to and not independent of the relation of employer and employee....” In order to arise out of and in the course and scope of employment an injury must be “(a)...reasonably apparent upon consideration of all circumstances, that the employment is a substantial factor in causing the injury; and (b) It can be seen to have followed as a natural incident of work; and (c) It can be fairly traced to employment as a proximate cause; and (d) It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life.” RSMo. § 287.020(3).

Mr. Bigham testified to the numerous activities he performed in his employment which required him to repetitively use his upper extremities. These activities included various tasks such as: repairing equipment; performing electrical work; repairing plumbing; repairing air conditioning duct work; replacing light bulbs; unloading shipments of various supplies; mopping work areas; snow removal; irrigation system repair; and tenant maintenance. In performing these tasks, Mr. Bigham often used a variety of different hand tools which require repetitive movement of his upper extremities including: screw drivers; nut drivers; ratchets; hammer drills; and rivet guns. Mr. Bigham testified the hammer drill and rivet guns also vibrated during use. Mr. Bigham testified his job duties have more or less stayed the same over the last 30 years. There was no evidence introduced to the contrary; and, I find Mr. Bigham’s testimony credible regarding the extensive use of his upper extremities at his employment.

While an employee of BTE, Mr. Bigham received medical treatments for his upper extremity conditions. The most significant physician’s note regarding his treatment is found regarding Mr. Bigham’s March 27, 2002 return visit with Dr. Collins following his MRI scans. Dr. Collins then stated “[Mr. Bigham] will require surgical care of both shoulders and wrists,” and Mr. Bigham should schedule the first surgeries. This was the first time any doctor recommended proceeding with surgical intervention for Mr. Bigham’s upper extremities.

In addition to Mr. Bigham’s testimony, Dr. Koprivica provided expert medical evidence that Mr. Bigham’s job duties are a substantial factor in causing Mr. Bigham’s conditions. Specifically, Dr. Koprivica opined that “Mr. Bigham’s work activities as a building operating engineer represent upper extremity use activities that are unique to his employment. Mr. Bigham does not use his upper extremities to this extent away from work. The general population is not exposed to this upper extremity use. The nature of his upper extremity use activities are competent to result in cumulative injury. It is my opinion that Mr. Bigham’s work activities are a substantial factor in the development of bilateral carpal tunnel syndromes as well as bilateral chronic impingement syndromes. There is also symptomatic acromioclavicular arthralgia bilaterally. There is also a risk of partial rotator cuff injury based on these conditions.” I find credible Dr. Koprivica’s opinion that Mr. Bigham’s work activities as a building operating engineer are a substantial factor in the development of his current bilateral upper extremity conditions.

Therefore, based on the preponderance of the credible evidence presented, I find that Mr. Bigham’s work activities as a building operating engineer at BTE are a substantial factor in causing the occupational diseases in his bilateral wrists and shoulders.

The next question for this Court to determine is which of Mr. Bigham’s numerous employers is liable for benefits under the applicable workers’ compensation statutes.

Missouri’s Workers’ Compensation Law states, in pertinent part, that:

1. An employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when for any length of time, however short, he is employed in an occupation or process in which the hazard of the disease exists, subject to the provisions relating to occupational disease due to repetitive motion as set forth in subsection 7 of section 287.067, RSMo.
2. The employer liable for the compensation in this section provided shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease for which claim is made regardless of the length of time of such last exposure.

Mo.Rev.Stat. §287.063 (1) and (2).

This is known as the “last exposure rule”. “The last exposure rule is not a rule of causation. Rather, as the starting point, the last employer before the date of claim is liable if that employer exposed the employee to the hazard of the occupational disease.” Endicott v. Display Technologies, Inc., 77 S.W.3d 612. In other words, “The starting point in applying the last exposure rule is that the employer liable for compensation is the last employer to expose the employee to the occupational hazard prior to the filing on the claim.” Johnson v. Denton Construction Co., 911 S.W.2d 286.

However, the last exposure rule is tempered by the exception found in RSMo. § 287.067(7) which states that:

With regard to occupational disease due to repetitive motion, if the exposure to the repetitive motion which is found to be the cause of the injury is for a period of less than three months and the evidence demonstrates that that the exposure to the repetitive motion with a prior employer was the substantial contributing factor to the injury, the prior employer shall be liable for such occupational disease.

Therefore, “as a turning point, [this] provision shifts liability to a prior employer only if the employee’s exposure at a later employer is less than three months, and the exposure with a prior employer was the substantial contributing factor to the injury.” Endicott at 615.

In this case, Mr. Bigham testified at the temporary hearing that despite his having worked in the same location over the last 30 years, performing generally the same job tasks, he actually had been employed by several different companies. According to Mr. Bigham’s testimony, he was an employee of BTE from approximately November 2001 to April of 2004. There was no evidence proffered to dispute Mr. Bigham’s testimony; and, I find Mr. Bigham’s testimony to be credible on this issue.

On Mr. Bigham’s behalf, the Eppright Law Office filed a claim with the Division of Workers’ Compensation alleging a series of accidents up to September 22, 2003. This claim for compensation was received by the Division on April 30, 2004, and acknowledged by the Division on May 03, 2004. In this claim, Mr. Bigham alleged an occupational disease from repetitive use of his upper extremities.

Accordingly, Mr. Bigham was not employed with his current employer for more than three months at the time he filed his claim for compensation for repetitive injury to his upper extremities. Therefore, the bright line rule of the last exposure rule is subject to the exception found in RSMo. § 287.067(7). As discussed above, I find that Mr. Bigham’s work activities as a building operating engineer at BTE are a substantial factor in causing the occupational diseases in his bilateral wrists and shoulders. Therefore, I find that BTE and its insurer, American Casualty Company of Reading, PA, are liable for all benefits due under the workers’ compensation act.

The next question for this Court to determine is whether BTE is currently liable for medical treatment necessitated by Mr. Bigham’s work related injuries.

According to RSMo. § 287.140, “In addition to all other compensation, the employee shall receive and the employer shall provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance, and medicines, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury.”

In this case, Dr. Collins recommended that Mr. Bigham undergo surgical intervention to cure and relieve Mr. Bigham from the effects of his injuries in March 2002. More recently, Dr. Koprivica recommended that Mr. Bigham be referred for updated electrodiagnostic testing for Mr. Bigham’s bilateral carpal tunnel complaints, and that if those results continue to show evidence of significant carpal tunnel syndromes, Dr. Koprivica felt that surgical intervention would be indicated. In addition, Dr. Koprivica also felt that Mr. Bigham should be referred to a shoulder specialist for evaluation and treatment of those complaints.

In addition to the expert testimony, Mr. Bigham introduced a handwritten list of his current physical complaints that he associates with his work injuries. This list includes complaints such as pain in both shoulders, aching in both shoulders, pain with movement of both shoulders, numbness in both upper extremities, stiffness in both wrists, continual pain in both thumbs, and difficulty with fine motor skills of either hand. No evidence was introduced to contradict Mr. Bingham's testimony, and I find Mr. Bigham credible on this issue.

Based on the preponderance of credible evidence, I find that Mr. Bigham continues to suffer from debilitating pain and limitations as a result of the work related injuries sustained at his employment at BTE. Accordingly, I find that BTE and its insurer, American Casualty Company of Reading, PA., are liable to provide Mr. Bigham with the treatment necessary to cure and relieve him from the effects of his injuries. Specifically, BTE and its insurer, American Casualty Company of Reading, PA, are to immediately provide Mr. Bigham with treatment from a physician who is licensed and specialized in treating upper extremity complaints, as recommended by Dr. Koprivica.

Date: \_\_\_\_\_

Made by: \_\_\_\_\_

Carl Mueller

*Administrative Law Judge*

*Division of Workers' Compensation*

A true copy: Attest:

\_\_\_\_\_  
Jeffrey Buker  
*Director*  
*Division of Workers' Compensation*

This provision does not apply to the claims filed for injury numbers 02-082811 and 02-121116 because Mr. Bigham was employed by BTE for more than 3 months for each of those cases which I find resulted in continual exposure to repetitive motion.