

FINAL AWARD ALLOWING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 05-134761

Employee: Randy Daugherty
Employer: Honeywell FMT
Insurer: Ace American Insurance Company
Date of Accident: October 19, 2005
Place and County of Accident: Kansas City, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge 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 the award and decision of the administrative law judge dated July 27, 2007. The award and decision of Administrative Law Judge Lisa Meiners, issued July 27, 2007, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 4th day of October 2007.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Randy Daugherty

Injury No. 05-134761

Employers: Honeywell FMT

Insurers: Ace American Insurance Company

Hearing Date: July 9, 2007

Checked by: LM/cg

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: October 19, 2005.
5. State location where accident occurred or occupational disease was contracted: Kansas City, 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? Yes.
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 sustained carpal tunnel syndrome as a result of constant repetitive hand use that occurred within the course and scope of his employment.
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 carpal tunnel.
14. Nature and extent of any permanent disability: 15 percent body as a whole permanent partial disability.
15. Compensation paid to-date for temporary disability: \$11,475.03.
16. Value necessary medical aid paid to date by employer/insurer? None.
17. Value necessary medical aid not furnished by employer/insurer?
18. Employee's average weekly wages:
19. Weekly compensation rate: \$696.97/\$365.08
20. Method wages computation: By stipulation.

COMPENSATION PAYABLE

21. Amount of compensation payable:
60 weeks for permanent partial disability from employer ..\$21,904.80
4 weeks of disfigurement \$1,460.32

22. Second Injury Fund liability: N/A

TOTAL: \$23,365.12

23. Future requirements awarded: N/A

Said payments to begin upon receipt of Award and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a lien in the amount of 25 percent of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: Mr. Keith Mark.

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Randy Daugherty

Injury No: 05-134761

Employers: Honeywell FMT

Insurers: Ace American Insurance Company

Hearing Date: July 9, 2007

Checked by: LM/cg

On July 9, 2007, the parties appeared for a hearing. The Employee, Mr. Randy Daugherty, was present and represented by Keith Mark. The Employer, Honeywell FMT, and Insurer, Ace American Insurance Company, was represented by Tom Billam.

ADMISSIONS

The parties admitted to the following:

- 1) That the Employer, on or about October 19, 2005, was an Employer operating subject to Missouri workers' compensation law;
- 2) That its liability was fully insured by Ace American Insurance Company;
- 3) That Randy Daugherty was its Employee;
- 4) That Randy Daugherty was working subject to the law in Kansas City, Missouri;
- 5) That Mr. Daugherty sustained an occupational disease arising out of and in the course of his employment;
- 6) The Randy Daugherty notified the Employer of the injury as required by law;
- 7) That the claim was filed within the time allowed by law;

- 8) That the Employer paid \$11,475.03 in medical expenses and did not pay any lost time to Claimant;
- 9) That the wage rates were \$696.97/\$365.08.

ISSUES

The issues to be resolved by this hearing include:

- 1) Whether Employee suffered any disability, and if so, the nature and extent of Employee's disability.

Claimant, an electrician for Honeywell, has used his hands performing his job duties on a constant repetitive basis since 1988. Indeed, Claimant uses hand tools that require constant gripping, squeezing, twisting, turning, pushing and pulling. Claimant also uses vibrating hand tools that occur within the course and scope of his employment with Honeywell. In 2003, Claimant noticed symptoms of tingling and numbness and went to the medical clinic of Honeywell. There, Claimant received a pair of gel gloves to use while performing his job duties and wrist braces to wear at night. Claimant continued to work but experienced increased symptoms of numbness, pain and tingling despite his use of gel gloves as protection.

As a result, the Employer sent Claimant to Dr. Ann Rosenthal. Dr. Rosenthal diagnosed bilateral carpal tunnel syndrome. Thereafter, Claimant underwent bilateral carpal tunnel releases in December of 2005 and January of 2006. Dr. Rosenthal found Claimant to be at maximum medical improvement on February 15, 2006. Claimant was released without restrictions and he returned to his regular job duties as an electrician.

The parties stipulate that Claimant sustained occupational exposure to his wrists that occurred while in the course and scope of his employment with Honeywell. The parties disagree as to whether Claimant sustained disability and, if he did, the nature and extent of disability.

Two doctors issued ratings in this case. Dr. Ann Rosenthal, the authorized treating orthopedic surgeon, opined Claimant sustained 5 percent permanent partial disability to each wrist. Dr. James A. Stuckmeyer, orthopedic surgeon, issued an independent medical evaluation on October 20, 2006. Dr. Stuckmeyer found Claimant sustained 20 percent permanent partial disability to each wrist or 19 percent permanent partial disability body as a whole.

I find Claimant sustained 15 percent permanent partial disability body as a whole as a result of the compensable occupational exposure. Claimant credibly testified that he experienced tingling of two fingers and thumb per hand after working with tools that occurred within the course and scope of his employment. Vibrating equipment Claimant uses at work also aggravate his symptoms. Although Claimant works full duty without medical restriction, Claimant modifies the manner in which he performs his work duties. Claimant still has tenderness at the surgical site of the carpal tunnel releases. Therefore, I find Claimant sustained 15 percent permanent partial disability body as a whole as a result of the October 2005 work injury.

Lastly, Claimant sustained permanent disfigurement from the carpal tunnel releases located on each palm of his hand. The scars appeared identical and each scar is approximately 1 ½ inches long. Scarring from the stitches appeared on each side of the incision sites. I find, pursuant to §287.190 (4), that Claimant sustained four additional weeks of compensation due to the conspicuous and permanent nature of the scars on each hand.

The Employer is liable for 15 percent permanent partial disability body as a whole to Claimant or \$21,904.80. Additionally, the Employer is responsible for four additional weeks of disfigurement pursuant to §297.190 (4) or \$1,460.32. As such, the Employer is liable to Claimant in the amount of \$23,365.12. This Award is subject to an attorney's fee in the amount of 25 percent above the previous offer of \$6,388.00 for services rendered by Keith Mark.

Date: _____

Made by: _____

Lisa Meiners
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Jeff Buker
Acting Deputy Director
Division of Workers' Compensation