

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

Injury No.: 07-014847

Employee: Dale Morrison
Employer: Murphy Company
Insurer: ACIG Insurance Company
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund (Open)

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 Law. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated September 21, 2009. The award and decision of Administrative Law Judge Joseph E. Denigan, issued September 21, 2009, 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 20th day of April 2010.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

NOT SITTING
John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Dale Morrison Injury No.: 07-014847
Dependents: N/A Before the
Employer: Murphy Company **Division of Workers'**
Compensation
Additional Party: Second Injury Fund (Open) Department of Labor and Industrial
Relations of Missouri
Insurer: AGIG Insurance Company Jefferson City, Missouri
Hearing Date: June 22, 2009 Checked by: JED:sr

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: February 20, 2007
5. State location where accident occurred or occupational disease was contracted: St. Louis County
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 performed repetitive tasks involving the use of wrenches, power and pneumatic tools, heavy lifting, and hammering with both upper extremities.
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: Right and left elbows
14. Nature and extent of any permanent disability: 25% PPD of right wrist and 17.5% PPD of left elbow plus 10% multiplicity factor; 4 weeks disfigurement (both wrists).
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? -0-

Employee: Dale Morrison

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- 17. Value necessary medical aid not furnished by employer/insurer? \$3,680.00
- 18. Employee's average weekly wages: Unknown
- 19. Weekly compensation rate: \$718.87/\$376.55
- 20. Method wages computation: Stipulation

COMPENSATION PAYABLE

21. Amount of compensation payable:

9.714 weeks temporary total disability benefits from Employer	\$ 3,657.91
74.375 weeks of permanent partial disability from Employer	28,005.91
4 weeks of disfigurement from Employer (both arms)	1,506.20
unpaid medical expenses	

22. Second Injury Fund liability: Open

TOTAL: \$33,170.02

23. Future requirements awarded: None

Said payments to begin immediately 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% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

Timothy P. Obara

FINDINGS OF FACT and RULINGS OF LAW:

Employee:	Dale Morrison	Injury No.:	07-014847
Dependents:	N/A		Before the
Employer:	Murphy Company		Division of Workers'
Additional Party:	Second Injury Fund (Open)		Compensation
Insurer:	AGIG Insurance Company		Department of Labor and Industrial
Hearing Date:	June 22, 2009		Relations of Missouri
			Jefferson City, Missouri
		Checked by:	JED:sr

This case involves bilateral upper extremity repetitive traumas resulting to Claimant with the reported onset date of February 20, 2007. Employer admits Claimant was employed on said date and that any liability was fully insured. The Second Injury Fund is a party to this claim but remains open for a determination of liability at a future date. Both parties are represented by counsel.

Issues for Trial

1. incidence of occupational disease;
2. unpaid medical expenses (stipulated @ \$3,680.00);
3. nature and extent of temporary total disability (stipulated calendar);
4. nature and extent of permanent partial disability.

FINDINGS OF FACT

Dispositive Evidence

1. Claimant was a full-time pipefitter employee of Employer, a mechanical contractor, on the reported injury date. He has worked full-time, plus overtime, for Employer for twenty years.
2. Claimant's duties entailed handling and cutting pipe, hauling and operating hand tools and power (vibratory) hammers and saws, installing unistrut braces and hangars for piping, boiler installation and maintenance and other work using chain falls, chain vices, come-alongs, etc. He handled ladders and scaffolding. Claimant also worked in Employers fabrication shop which essentially required squeezing a MIG welding trigger all day.
3. Claimant developed disabling hand pain and eventually complete numbness. He experienced night pain and sleeplessness.

4. After several referrals, Claimant underwent treatment with Dr. Schlafly, a hand surgeon, who performed surgical releases bilaterally in August and September 2007 and placed Claimant off work through October 29, 2007 for a healing period. Claimant had no prior hand treatment.
5. Claimant obtained substantial relief from the surgeries.
6. Claimant currently works in pain for most of the day.
8. Claimant currently experiences digital numbness in the ulnar nerve distribution on the right upper extremity. His grip strength is markedly reduced bilaterally. He has premature fatigue of the elbows with increased symptoms.
9. Claimant's expert seemed well informed and thorough in his examination. Dr. Schlafly diagnosed bilateral carpal tunnel syndrome. He rated the disability at twenty-two and one-half percent PPD of the each wrist. He further suggested a multiplicity factor as a measure of PPD. His evaluation was easily reconciled with the balance of the record.
10. Employer had Claimant examined by Dr. Cantrell, a physical medicine and rehabilitation specialist. He examined Claimant but did not review the EMG nerve conduction study. He diagnosed CTS and possible cervical radiculopathy. He listed risk factors of obesity and hyperthyroidism. Dr. Cantrell indicated he was familiar with the hand work of pipefitters.
11. Employer also had Claimant examined by Dr. Strege who examined Claimant and the record. Dr. Strege identified hypothyroidism, obesity, cervical stenosis and work activity to all be contributing factors to his diagnosis of CTS. He did not believe work was the prevailing factor is Claimant's condition of CTS because of these other risk factors. He admitted he did not know the treatment status of Claimant's hyperthyroidism.
12. Dr. Schlafly testified about the risk factors. He found that the hyperthyroidism was adequately treated. Both experts admitted on cross-examination that obesity was a risk factor and not a known cause of CTS and that obesity.

RULINGS OF LAW

Claimant offered substantial opinion evidence from a qualified hand surgeon that Employer's work exposure was the prevailing factor in Claimant's development of CTS. Employer offered opinion evidence from two physicians one of whom was a hand surgeon. Each identified recognized risk factors as bearing on Claimant's case. Neither expert explained the viability of the risk factors. In addition, their understanding of the ergonomics was not detailed by report or testimony and thus lends doubt as to their understanding of the degree of hand trauma experienced by Claimant at work. Claimant's testimony on [ergonomics] dovetails with Dr. Schlafly's opinion that Claimant's CTS was caused by work.

Nature and Extent of PPD

Claimant's testimony was credible and included sufficient detail of his ergonomic exposure to repetitive trauma and vibration. His description of symptom relief post-surgery was persuasive. Claimant permanent symptoms include serious reduction in grip strength and endurance. His pinch grip is markedly reduced. The job duties are particularly demanding in terms of grasping heavy, yet relatively thin, sheets of stock in both placement into and removal from the break machine. The concussion associated with the repeated pounding out of waste material from the sheet metal is easily understood to increase symptoms throughout the course of the workday. Claimant apparently continues to take prescription anti-inflammatory medication. The record suggests Claimant sustained substantial PPD bilaterally, including minimal disfigurement.

Conclusion

Accordingly, on the basis of the substantial competent evidence contained within the whole record, Claimant is found to have sustained work related repetitive trauma resulting in twenty-five percent PPD of the right (dominant) wrist and seventeen and one-half percent PPD of the left wrist. A twenty percent multiplicity factor is applied. Four weeks disfigurement is awarded.

Date: _____

Made by: _____

Joseph E. Denigan
Administrative Law Judge

A true copy: Attest:

Division of Workers' Compensation

