



Tribunal Allows Achilles Tendonitis Appeal. Injury Caused by Excessive Walking, Climbing, Working off Ladders, Carrying Heavy Materials, Which Places Stress on Feet/Ankles

By: Gary Majesky, *WSIB Consultant & Executive Board Member*



It seems that foot and ankle injuries that arise from repetitive squatting, climbing, working off ladders, and activities that cause tensile loading of the foot and Achilles tendon are frequently denied by WSIB. Typically because there are non-work related risk factors such as age, obesity, and seronegative inflammatory disorders and that the job demands pose no positional risk of injury.

In 2010, the union successfully argued a Tribunal appeal involving a members entitlement to Plantar Fasciitis (PF), which was allowed on the basis that the work risk factors were a likely and probable causal factor, such as excessive walking on hard surfaces, considerable climbing, ongoing lifting and carrying heavy items to be installed in awkward settings (see *Decision No. 544/10*). The member worked for a downtown university

Building on this earlier case law, another electrician employed at the same downtown university recently won a Tribunal appeal (see *Decision No. 1762/17*) granting entitlement for Achilles tendonitis (AT), which the WSIB denied because the condition was deemed age related, a pre-existing sports injury (hockey), nor were the job demands deemed to be a significant contributing factor in the development of AT.

The Board denied the claim because there were minimal risk factors to develop Achilles tendonitis in relation to the electricians' job demands, and most importantly, the condition is typically the result of sports injuries such as sprinting, playing tennis, where there is excessive loading on the feet and ankles.

Members who attend hearings nod approvingly when I refer to them as "industrial athletes." Most would agree with this characterization, because of the physical demands working in the trade often times involves heavy work, such as distribution, where working with 750 mcm is "like wrestling with a python."

The Board commissioned a medical report from Dr. Kanalec who opined that the worker had been employed by his employer since 2007 without any mention of a change in job duties. In addition he worked for several years without any symptoms, suggesting the worker was habituated to the job demands. There was also no information regarding the worker's body habitus, BMI or lower extremity biomechanics, pes planus versus pes cavus (flat footed or high arch). His job tasks likely vary from day to day including time required for ambulation, ladder work, squatting, stairs etc. Finally, there was no description of his shoes or whether they are fit properly.



The workers testified that on average he walks upwards to 12 km/day in order to get to the 200 different buildings scattered throughout the downtown university campus. He emphasized that his works boots are not designed for that kind of walking, even though he started using orthotics after his feet became sore. The workers testimony including the following with respect to his duties:

- The worker had worked for 23 years prior to working with the employer and did not have any issues with his feet, nor did he have any prior injury to his right foot.
- The workplace has a policy that prefers walking over driving. While there are four trucks available they are shared amongst all the 100 plus trades employees.
- There are over 200 buildings in the geographic area of the campus that vary in size, however the majority are over four stories high.
- While there are elevators in the buildings some are small in size which means that he had to climb stairs with materials for jobs, for instance when carrying a ladder over 6 feet or scaffolding.
- The worker received his work assignments from his Lead Hand in the morning at the office, walked to his work assignments, and walked back to the office at the end of his shift.
- The worker carried materials and tools for each job in pouches (one on each side) with an approximate weight of 30 to 50 lbs. for



his tool pouch. He generally carried approximately six electrical ballasts with him with an approximate weight of 20 to 30 lbs. On occasion he also carried a ladder under his arm, which required him to put both pouches on one side of his body.

- The worker walked, on average, over 12 kilometers a day in steel-toe boots (CSA green triangle patch that indicates sole puncture protection and a protective toecap) and did frequent stair climbing. The worker estimated his walking at 70% of his seven hour work day, which included stair climbing which he approximated was 5 to 10%.
- His work required frequent reaching and moving around to perform electrical work as obstacles were generally in the way. Also, he was frequently required to stand on a ladder or other furniture to perform his job. This meant he was "extending and overextending his feet." He approximated that he used a ladder approximately 10% of his work day. He further approximated that he worked on uneven surfaces approximately 3% of his work day.
- The worker does not sit down during his work, rather he is generally always moving or standing.
- The worker's duties required him to squat, kneel, and crouch approximately 5% of the time, particularly for low level work or in tight spots.
- His job duties haven't changed. He described the primary activity that placed stress on his feet as walking with the secondary being work on the ladder.
- The jobs were always different but the activities were always the same.
- At home the worker said he did not perform strenuous activities, describing his activity as watching TV and relaxing, as well as putting ice packs on his feet.

In granting the members appeal, the Tribunal Vice-Chair ruled:

I prefer the worker's testimony and Dr. Wong's opinion over that of Dr. Kanalec who only had the Physical Demands Description to review in considering the worker's job duties. I do not find the hockey represented a risk factor, noting the worker testified he has played shinny hockey with a group of friends for the past 15 plus years for 1 ½ hours every Saturday from October to April; he has only injured his right wrist while playing hockey, not his right foot. The worker testified that Dr. Wong has been his family physician for over 18 years, and [his GP] did not indicate there were any pre-existing problems.

Regarding Dr. Kanalec's opinion, I give it low weight as he did

not have a thorough understanding of the worker's physical job duties, he did not examine the worker in person, his opinion was not supported by the medical reporting, and he had "limited information" before him. All that was before Dr. Kanalec was the PDA. In that respect, I note the "Board's Adjudicative Advice Initial Entitlement (Disablement) document, which is not binding on the Tribunal but is intended for use by the Board's front line adjudicators.

The document states:

... significant detail around the work performed including the mechanics of how it was performed and the nature of the injury the worker has incurred must be secured. The primary source of the nature of this information should be the worker and the treating physician(s). Written job descriptions do not always effectively capture the sequence of tasks and extent of the activities.

I accept the worker's testimony on his duties and find that it is internally consistent and consistent with the contemporaneous reporting around the time of the accident. Further, his testimony regarding his job duties was consistent with his family physician's understanding of the job duties. In addition ... Dr. Kanalec suspected that there may be non-work exposures but did not examine the worker in person. In any event, I find that these suspected non-work factors are not confirmed in the medical reporting ...

Further, Dr. Kanalec suspected "age-related tendon changes." However, these suspected "age-related tendon changes" are not supported by any of the worker's medical documentation; further Dr. Wong did not note any pre-existing problems for the worker ...

Mr. Majesky also provided for my consideration *Decision No. 1428/09* in which the Vice-Chair reviewed medical literature and noted a general consensus that Achilles tendonitis is associated with "excessive physical activity and, in particular sporting activity, which results in excessive repetitive overload of the Achilles tendon." The Vice-Chair found the worker, who worked on a ship, was required to "be on the move throughout the ship and required frequent walking, ladder climbing and stair climbing." In coming to my decision, I note my finding that the worker in this appeal also performs substantial physical activity in the performance of his job duties.

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