Tribunal Allowed Member Appeal for Trigger Thumb, Cubital Tunnel Syndrome & Permanent Impairment for Carpel Tunnel Syndrome

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

I have published articles on the causal relationship between the physical demands of an electrician's job, which habitually recruits repetitive gripping and squeezing and the development of hand disorders and neuropathies. The most frequent is carpel tunnel syndrome (CTS), followed by trigger finger/thumb, and cubital tunnel syndrome.

Dealing with WSIB can be a frustrating experience for members, myself included, because notwithstanding well documented medical literature and case law regarding a strong causal relationship between the development of hand neuropathies and the job tasks of electrical workers – decision makers frequently rule there is nothing inherently repetitive about the job because job tasks change throughout the day.

In rebutting this nonsensical analysis, I refer to our Electrician Ergonomic Research Study and point to the numerous photo's. Leaving aside the "tool list" it doesn't matter what branch of the Brotherhood you work in, because the key anatomical tool of the trade is your hands. In each and every photo members are using manual or power tools, pulling and stripping wire, and making terminations. The evidence is irrefutable – just open your eyes.

In a recent Tribunal appeal, *Decision No. 1170/18*, an electrician employed at a downtown university developed CTS in 2010. His claim was initially allowed, but the WSIB ruled he fully recovered post-operatively, and did not suffer a permanent impairment. They also ruled the member's cubital tunnel syndrome and trigger thumb were not work related because of a delayed onset. He subsequently underwent two surgeries for trigger thumb and remained symptomatic.

The WSIB exploited the opportunity ruling the members' ongoing hand symptoms were related to the non-compensable cubital tunnel and trigger thumb, and not CTS.

In our legal submissions the union cited a medical report from the family MD, and a medical opinion from Dr. Zvi Margaliot, a renowned hand specialist who treats injured workers at a WSIB Hand Specialty Clinic. Years ago I solicited Dr. Margaliot's opinion whether the job demands of an electrician represents a risk factor in the development of hand disorders. In formulating his opinion, he reviewed our Electrician Ergonomic Research Study which has been quoted in numerous Tribunal decisions, and is considered determinative. In Tribunal Decision No. 1804//10, Dr. Margaliot's opinion was quoted:

> I am happy to answer the question in the general case based on review of the attached *Physical Demands Description and Electrician Ergonomic Study*, which you had kindly provided, describing the specific tasks that an electrician is required to perform. Although there may be other contributing factors, including systemic diseases such as diabetes mellitus, it is my opinion that highly repetitive, manual work such as pulling wire, repetitive or sustained forceful grip and sustained use of vibrating and power tools would be considered a material contributing factor to the development of focal compression neuropathy, including carpal tunnel syndrome or cubital tunnel syndrome.

In the most recent appeal, Vice-Chair Goldman quickly zeroed in on the adjudicative flaws in denying the member's claim. She noted "the Case Manager recognized that there were risk factors for both diagnoses associated with the duties of an electrician." However, "due to the delayed onset of symptoms, the new diagnoses cannot be causally linked to the worker's job duties."

The Appeal Resolution Officer relied on the Board's medical consultant opinion, where Dr. Kanalec, stated the following:

> There are risk factors for the development of trigger thumb with the duties of electrician(s) which would include repetitive gripping grasping with the hands and thumb against resistance however this gentlemen has not been working for quite some time. Risk factors do exist for the bilateral trigger thumb with respect to job duties of electrician however there has been a significant temporal lag based on him not working post bilateral CTS to explain symptom onset. The bilateral triggering is not related to bilateral CTS.

The cubital tunnel syndrome is not related to bilateral CTS condition but there are risk factors for the development of this condition with respect to the general duties of an electrician, such as repetitive flexion extension of the elbow against resistance as well as prolonged flexion or levering of the elbows during certain jobs however the only problem in this case is that the symptoms came on later, him being off work without any further work exposures of significant.

In essence, WSIB decision makers ruled that the delay in the onset of cubital tunnel syndrome and trigger thumb broke the chain of causation between the work duties, notwithstanding the members evidence that his CTS was initially worse, but once his CTS symptoms settled post-operatively, his other hand issues were more noticeable.

Vice-chair Goldman in allowing the members appeal focused on the issue of medical compatibility and the member's ongoing symptomology ruling:

Based on the medical evidence I find that the worker's trigger thumb condition and cubital tunnel syndrome are compatible with the accident history. As noted above Dr. Kanalec opined that there were risk factors for the development of trigger thumb and cubital tunnel syndrome associated with the duties of an electrician. The worker testified that he had ongoing numbness and tingling in his thumb prior to seeking medical attention for this condition. At the time he reported a disablement injury the most severe symptoms were associated with CTS. I am persuaded by the worker's testimony that he experienced symptoms associated with his thumb and elbow throughout this period, and that the symptoms deteriorated with time causing him to seek medical attention after the bilateral CTS release surgeries. I also note the proximate nature of the areas of injury. The medical article provided by the Tribunal's Medical Liaison Office indicates that trigger thumb as described in the article, tender lump in the palm; swelling, catching or popping sensation in the finger or thumb joints, pain when bending or straightening the finger, correspond to the worker's description of his symptoms some time before he sought medical attention for his conditions.

In the present case the worker cubital tunnel syndrome cannot be considered idiopathic (cause unknown), since clearly the injuries forces have been identified. In coming to my finding that the worker has not fully recovered from his carpal tunnel injury and that his impairment is permanent, I have taken into consideration the fact that the worker's carpal tunnel condition has persisted for a number of years, and that despite physiotherapy and surgery, has failed to resolve. I can only conclude that the impairment is permanent, and that, consequently, the worker is entitled to a NEL award for bilateral CTS impairment.

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