

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F400108**

<b>JIMMY PARNELL, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>GE INDUSTRIAL SYSTEMS, EMPLOYER</b>	<b>RESPONDENT</b>
<b>ELECTRIC INSURANCE CO., CARRIER</b>	<b>RESPONDENT</b>

**OPINION FILED JANUARY 4, 2005**

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on October 1, 2004, at Jonesboro, Craighead County, Arkansas.

Claimant represented by the HONORABLE KEITH BLACKMAN, Attorney at Law, Jonesboro, Arkansas.

Respondents represented by the HONORABLE MARK MAYFIELD, Attorney at Law, Jonesboro, Arkansas.

**STATEMENT OF THE CASE**

A hearing was conducted in the above-style claim to determine claimant's entitlement to workers' compensation benefits.

On August 24, 2004, a pre-hearing conference was conducted in this claim, from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties' respective contentions relative to the issues. The Pre-hearing Order is herein made a part of the record as Commission Exhibit #1.

The testimony of Jimmy Parnell, the claimant, Beverly Hayden, along with the deposition testimony of Dr. Rebecca Barrett-Tuck, Ray Finecey, and Gerry Waldo, coupled with medical

reports, video tape, and other documents comprise the record in this claim.

**DISCUSSION**

Jimmy Parnell, the claimant, with a date of birth of April 29, 1954, has a seventh grade education. Claimant commenced his employment with respondents at the Jonesboro location in 1978 and remained for thirteen (13) years before leaving. In 1992 claimant returned to the employment of respondents and continued at the Jonesboro location until February 9, 2004, at which time he moved to the Madisonville, Kentucky location of same.

The testimony of the claimant reflects that he did several different jobs over the years during his employment with respondents. Claimant noted that due to seniority he was bumped off by other employees from some jobs, however recalls that he was doing the winding job at the time he began to experience complaints relative to his wrists, in either late 2002 or early 2003. Claimant testified that the symptoms were of a gradual onset in nature and that he finally sought assistance from the plant nurse at which time he was furnished elastic supports for his wrist.

In describing the mechanics of his job duties on the winding machine, claimant's testimony reflects:

The machine that winds copper wire around the staidler  
(phonetic) part of the motor and then we proceeded on to the next  
operation.

\*                      \*                      \*

. . . You have to load the machine and then unload the machine  
and then you have work that you have to, I don't know what you call it,  
you have the motors and send it on down the line to the next operation,  
so quite a bit of movement on some models. (T. 12).

Included in the record is a video, (RX. #1), reflecting the operation of a winding machine.

Claimant acknowledged that he operated the machine, though not a great deal:

. . . That was another grade. That's not what you normally run out there. That was just the machines that they were making better, more advanced, I guess you would call it, but that's not the machines that - - I ran other machines more over the years than I did that machine. (T. 12).

In explaining the differences in the machines he normally ran as opposed to the one in the video, claimant testified:

Well, this machine I saw on the video that I did run, it was most of the time it was like a thousand turns which you had quite a bit of time to wait on it and also you just put your finger up like this, just touch a little thing, it will start, the door will close and then when it got through the door opened by itself. But the other machines you had to open what we call a gate or door that weighed probably three pounds or more and you would open them like this all night long.

\* \* \*

You've got the machine on this side of you and you have a machine right here on this side of you - -

\* \* \*

Yes, sir, on both sides.

\* \* \*

Anyway at the same time basically.(T.12-13)

Claimant's testimony reflects, with respect to his employment activity with the winding machine:

Well, I had to load up the machine, I had to take the parts like off the table here and then I would take it like this and put in four or some machines had six heads but most of them I ran had four on each machine. And then I would have to reach up and pull a lever down and hit a start button and then these, well, I forgot one step. When I took the staider off I had a little post that they sit on. All right, then the machine had a, like a scissor that cut the wire and then I take them

off of these posts and then I sit here and do the finish work - -

I had to twist these little wires around the terminals.

And then I had to shove them into a machine that would cut the excess off - -

And then I put them on the line and then most of the time before I got these four heads, this here machine had to be loaded and the same thing - -

Yes, sir, you're constantly, in a chair like I'm in now and and you'd turn all night long back and forth. But those machines, the machine that was in the video?

It had like a thousand, maybe 800 turns most of the time. The other machines some of those had like 400 turns. They were real fast and just as soon as this machine stopped most of the time even before you got this one finished this one was ready. You're just like this all night long (indicating).

Back and forth. A lot of hand work. The finishing part of the staiders and then you had to pick work up off the line and you had to take a stamp, get it wet with ink and you would have to stamp the parts and put it up on a work tray all night just back and forth. A lot of hand motion, loading and unloading, raising the doors. . . (T. 13-15).

Claimant testified that the machine depicted in the video in one of four that has been automated/upgraded and made better. Claimant's testimony reflects that he normally operated the older machines. During a regular shift claimant estimated the e would wind between 800 and 1,400 staiders, depending on the model he was running.

In February 2003, claimant was involved in a automobile accident. Claimant's testimony reflects, regarding the motor vehicle accident:

I was goint to work at approximately 10:15, I think on a Friday night. And some boys ran a stop sign and hit me in the side on the right rear tire and spun me around about three times and I came to a stop. (T. 35).

Claimant suffered some neck problems from the accident and was seen by various physicians. Claimant's problems and symptoms relative to his neck were such that he eventually missed time from work.

Claimant acknowledged that he did not seek treatment for his hands/wrists in either 2002 or 2003 until after the February 2003 automobile accident. Further, claimant confirmed that at the time he reported his carpal tunnel syndrome to respondents he had been off work for six weeks receiving treatment under the care of Dr. Rebecca Barrett-Tuck for the automobile accident injuries. Claimant noted that while he was off work for treatment relative to the injuries suffered in the motor vehicle accident, he experienced a decrease of the symptoms in his hand/wrist complaints.

The testimony of the claimant reflects that Dr. Barrett-Tuck provided treatment relative to his hand/wrist complaint in the form of prescriptions for medication and cockup splints/braces. Claimant also underwent diagnostic studies pursuant to the directions of Dr. Barrett-Tuck which disclosed the carpal tunnel syndrome in both upper extremities. Upon his release to return to work from the injuries suffered in the motor vehicle accident, claimant resumed his regular employment duties on the winding machines.

On February 9, 2004, claimant was transferred to respondent's facility in Madisonville, Kentucky following a reduction in force at the Jonesboro plant. Respondents manufacture parts for jet engines at the Kentucky plant. In describing his current job duties, claimant's testimony reflects:

I run grinders that grind the blades that go in jet engines. They are about the size of a teaspoon in our area, some as big as your hand in other areas but I more or less just push buttons and

the machine just runs. I sit down and watch it until it finishes its cycle. Just put those, like I say, spoons in it and take them out and put them in a box, stamp them off.(T. 20).

Claimant testified that he continues to have problems with his hands and wrists, which are as bad as when he was working on the winding machines:

Yes, sir, I'm still - - there's still sharp pain and aching. And if I don't put the splints on, my hands still wake me up. (T. 21).

Claimant has not performed his present job the entirety of the time that he has been in Madisonville, Kentucky. Claimant's testimony reflects:

No, sir. There's some jobs, when I first started out, it was real, real easy machine and I didn't have any, wasn't really doing anything much more than what I am doing right now but there are some jobs that I have to use dental root canal files, drills, and I have to de-burr (phonetic) holes that's where I really have got to wear those supports.

\* \* \*

My pain increases. I even went to my supervisor and, you're not allowed to touch these parts with any metal. So, I went to Lowe's and bought a plastic, it's almost like a jumper cable clamp, like you're going to jump a car off. And it's got like a spring in it. Because, I mean for me to hold the part with my thumb and finger and the part is so hard to move up and down inside those little holes to de-burr them that I have to grip real tight with this finger and it makes this wrist hurt so what I done, I can lay my hand down flat on that plastic grip and then I can take this hand and go up and down.(T. 21-22).

Claimant's testimony reflects that he has been sent to a physician by respondents since he began working in the Madisonville plant, Dr. Perry at Tri-State Orthopedic in Indiana. Claimant noted that he continues to experience pain and numbness in his hands/wrists, which increases with the more work he does with his hands.

In describing the symptoms he experiences on a regular basis when not having to do

manipulation or manipulative type activities, claimant testified:

Just sharp pains in my wrists, aching and just like trying to hold on to the steering wheel of a car. I have to rotate my hand because the pain gets so severe. It's like I've got to rest one hand and drive with the other one and then back and forth because the pain is so sharp that - - I can release the grip on the steering wheel it seems like it helps for awhile. It's just sharp and aching and shooting pains in my wrist and kind of up in this area here in places.

Well, the back of my thumb and it just like gets to aching. And the backside of my hand. Just sharp pains.

It's unbearable. As the pain gets too bad, I've had to go and buy my own, something to help, so I don't have to miss work. And I'm not going to miss work if there's any way. I just don't miss work. Like a lady asked me one time, do you know your work phone number? I said, no, I don't need it, I don't ever call in. (T. 24).

Claimant's testimony reflects that he has not been taken off work due to complaints relative to his hands/wrists, nor has he loss time from work as a result of same. Claimant anticipates that further medical treatment will be required relative to his hands/wrists, to include surgery.

Claimant denies ever being diagnosed with carpal tunnel syndrome prior to 2003. Claimant acknowledge receiving medical treatment at the Veteran's Administration hospital prior to 2003. The claimant did not recall undergoing an EMG or a nerve conduction study prior to 2003. Further, claimant testified that if the VA records disclosed mild carpal tunnel syndrome in 1992, he was never told or treated for it. Likewise claimant had no recollection of problems with his wrists or tennis elbow or anything prior to 2003.

While claimant acknowledged having a lot of trouble with his lower back, he does not remember being treated for arthritis. Claimant has undergone surgeries relative to his low back.

Claimant receives disability relative to his back from the Veteran's Administration, 60%.

Beverly Hayden testified that she has been the plant nurse at the Jonesboro plant of respondents since September 2002. Ms Hayden testimony reflects that she succeed Ms. Pam Sneed in the position of plant nurse. Ms. Hayden denied that claimant ever came to her to complain about pain, numbness or tingling in his wrist prior to his February 2003 automobile accident. Ms. Hayden testified that claimant first came to her to report complaints relative to his wrist in early December 2003 after he had been off work on short term disability. Ms. Hayden's testimony reflects that claimant was off work on short term disability from October 2003 to December 2003.

Ms. Hayden recalls the date that claimant came in to discuss his situation December 2, 2003, and that he was off work on short term disability. During the conversation Ms. Hayden testified that claimant relayed that he had been to see Dr. Barrett-Tuck, and that he had been diagnosed as having carpal tunnel related to his work.

Mr. Ray Finecey, the manager shop operations at the Jonesboro plant of respondents for fourteen years, testified that he was a supervisor of the claimant. Mr. Finecey's testimony reflects that he and claimant worked together for 8-10 years. Mr. Finecey testified that the job claimant did most recently in 2003 at the Jonesboro plant was a 51 Frame Winder. Mr. Finecey described claimant's job duties:

Oh, the product we build is a two pole motor and what Jim did was a stator core with the copper wire. He ran two pieces of equipment in stator assembly.

\* \* \*

No, two similar, identical pieces of equipment. They have four

heads on each winding machine, so you essentially wind four at time, and then on the other four you're doing some miscellaneous work to it. You cycle between the two machines, so you're working off of the two machines off and on, back and forth. (RX. #5, p.5).

Mr. Finecey testified that on the job claimant was doing a normal night he would work with between 525, 575 maybe occasionally 600 parts. Mr. Finecey denied that claimant ever complained to him about problems with his hands/wrists relative to his employment duties or job performance.

Mr. Finecey testified that he was aware that claimant was involved in an automobile accident. Regarding the amount of time claimant was off work following the accident, Mr. Finecey testified:

After Jim had that accident, he missed quite a bit of time, and that's where I had discussions to find out what was going on with him, because he was missing, you know, a day a week, that sort of thing, prior to his actually going out and having the surgery before he was out for an extended period of time. But he missed a number of days leading up to that; and Jim never had a history of bad attendance. I mean, he was somebody you could count on all the time. (RX. #5, p. 10-11).

Mr. Finecey testified regarding the use of hands in the job discharged by the claimant:

That's right. Everything is hand except for the actual winding of the machine putting the copper wire in. Everything is a load, unload, assembling the wire to the terminal, is all hand. (RX. #5, p. 12).

Gerry Waldo, who worked as maintenance manager for respondents at the Jonesboro plant from 1997 to 2001, and as maintenance manger and environmental health and safety manager, from 2001 until 2004, has been employed by a different employer since September 2004. Mr. Waldo testified that the last job that claimant performed for respondents at the Jonesboro plant was as a 51 frame winder. Mr. Waldo's testimony reflects, with respect to the

claimant's job duties:

Well, while he was a winder, he worked eight hours a day as a 51 frame winder. Now, since the line was the majority of the people were women so when a set up operator was off for sickness or vacation he would move from a winder to a set up operator which requires helping the women set the machine up. (RX.#6, p.5).

\* \* \*

The majority of the time a set up person, they just waited for one of the women to turn the light on and say hey, my machine needs some help. (RX. #6, p. 6).

Regarding the video, RX. #1, Mr. Waldo testified that he was aware of the machine that claimant welded on, which is the one depicted in the tape. Mr. Waldo's testimony reflects that the automatic lift, reflected in the video, has been in place for two or three years.

Mr. Waldo testified that he saw the claimant every day at work. Mr. Waldo's testimony further reflects:

Jim, uh, never complained to me about any symptoms with his wrists, or hands. He did complain to me about lots of other things, machine problems or this or that, but he never complained about any medical problems.

\* \* \*

Well, I've known Jim for seven years and Jim's not a shy person. If he had problems, I don't care how slight it is, he's the type of person that would come and tell me about it. That's something, I mean, I was totally shocked when he said that he had carpal tunnel from GE because it was a shock to all of us. That's something that Jim definitely would have told us. (RX. #6, p. 10).

Claimant treated with Dr. Barrett-Tuck, initially on October 7, 2003, and November 26, 2003. Dr. Barrett-Tuck testified regarding the factors she considered in understanding the claimant's complaint, in addition to his symptoms and job duties:

The only other factor than is the motor vehicle accident and the fact that it seemed to get worse at that time. You know, I see a fair number of people that have an accident and think that carpal tunnel gets worse. I'm assuming they have their hands on the wheel and maybe there is some contusion or some injury to the already compressed nerve that causes it to get worse at that time. That's the only other factor. (RX. # 4, p. 6).

Dr. Barrett-Tuck testified regarding her opinion of the relationship between the claimant's carpal tunnel syndrome and his employment with respondents:

Okay. Uh, Mr. Parnell had really noticed the numbness and tingling in his hands particularly after the motor vehicle accident that he was involved in. But he did, as I questioned him more about the numbness in his hands, he did relate that in the past before the accident he had awakened at night upon many occasions with his hands numb and tingly which, of course, are classic symptoms of carpal tunnel syndrome. But apparently after the accident had occurred, it was much more prominent and bothered him much more.

My impression is that he already had carpal tunnel syndrome from work as, you know, repetitive work, work with the hands as most people develop carpal tunnel syndrome over a long period of time just from using the hands. So my opinion was that he most likely already had the carpal tunnel syndrome. He did already have symptoms that he admitted to. He had been having some mild symptoms for years and then that most likely the motor vehicle accident exacerbated his carpal tunnel syndrome and therefore caused the symptoms to become severe enough that he became concerned about it. (RX. #4, p. 5).

The medical in the record reflects that in 1987 claimant presented to the VA hospital with a history of numbness in his little finger which was diagnosed as tardy ulnar nerve palsy. In 1990, claimant presented with a history of pain in a number of joints, including both wrist, and was diagnosed with polyarthralgia. In 1992, claimant under diagnostic studies at the VA for complaints of pain and numbness in his hands and fingers. The EMG/ Nerve Conduction Study disclosed bilateral mild carpal tunnel syndrome. At the time the claimant was seen by Dr. Barrett-Tuck she was unaware of the afore.

Dr. Barrett-Tuck testified regarding her initial contact with the claimant:

Well, when Mr. Parnell first saw me and told me about the numbness in this hands he was waking up at night with the symptoms, but it was his impression that the numbness and tingling in his hands that he was having, if I understood him correctly, was related to the motor vehicle accident. I explained to him that the symptoms that he was having at the time with the numbness and tingling most likely related to carpal tunnel syndrome and began to question him about his work. (RX. #4, p. 21).

Dr. Barrett-Tuck explained, from an anatomy standpoint, how the carpal tunnel can be affected:

The most common carpal tunnel is caused from thickening of the transverse carpal ligament, the ligament that goes across the palm and wrist and covers the median nerve. Due to usage or other factors, the ligament thickens and then the nerve is compressed.

Some of the other factors that we mentioned, intrinsic factors, may cause swelling or fluid collection that can, such as pregnancy and thyroid disorders, they can develop edema. Edema is tissue fluid, excessive fluid in the tissues. That can result in compression of the nerve which is a reversible rather than the thickened ligament which is not really a reversible problem.

Yes, there can be some tissue swelling associated with that [rheumatoid arthritis] and that can cause dysfunction of the nerve.

Exactly. Either the ligament gets thick and compressed the nerve or the nerve and surrounding tissue swell and therefore the space is too small because of the nerve being swollen or the tissues around the nerve being swollen, exactly. (RX. #4, p.15-16).

After comparing the results of the EMG/ Nerve Conduction Studies that the claimant underwent in 1993, to those of 2003, both yielding mild bilateral carpal tunnel syndrome, Dr.

Barrett-Tuck testified:

I, you know, I could try to compare the numbers and say if there was any difference between the two; any of us could do that. But the fact that he had mild carpal tunnel syndrome on our testing and he tested positive for carpal tunnel syndrome ten years before, you would have to conclude that there has not been any

significant progression since it's still mild so it sounds as though it's been electrodiagnostically relatively stable or at least very slowly progressive, if any.(RX.#4, p. 14).

Regarding the dynamics of carpal tunnel syndrome, Dr. Barrett-Tuck's testimony reflects:

Carpal tunnel syndrome can experience exacerbations and remissions. I have seen people who had a change in the type job they were doing; such as one patient, for example, was pushing together fire, smoke detectors and had an acute exacerbation of carpal tunnel. We took him off the job; he went to another job; did not return to that and his symptoms remitted. Still he had the underlying condition.

We see some people we can put in splints which we tried to do with Mr. Parnell since had, had an exacerbation of something that had not been that bad for him. Put him in splints and I would anticipate that possibly the inflammation and the exacerbation would settle down. Again, it might go back to a mild condition.

I see some patients who have mild carpal tunnel, mild symptoms for many, many years. They may not become severe enough that they need intervention, but then you see another person that may have a very, very rapid course with their carpal tunnel and won't respond to conservative treatment so it can vary. (RX. #4, p. 11).

In response to an inquiry of the nexus between the claimant's diagnosed bilateral carpal tunnel syndrome and his work for respondents, with a degree of medical certainty, Dr. Barrett-Tuck testified:

I think for me to make that determination I would have to know the exact date that he had his previous testing done; how long he had actually worked at GE before that testing was done; and again, what type of work he was (was) doing in that it would have to be a relatively short time from the information I just gathered today that he worked there six months, maybe. I don't have that information.

And certainly, depending on the type of job he was doing, carpal tunnel could develop six months to a year from a job depending on the particular job he was doing. So I don't have that information to enable me to make a determination. Then there's still the issue of thyroid problem. Does he have a thyroid problem, and does that need to be treated before a determination is made. So I think at this point until I get a little more information I don't think I could give an opinion. (RX. #4, p.17-18)

After a thorough consideration of all the evidence in this record, to include the testimony of the witnesses, viewing the video tape, reviewing the medical reports and other documents, and application of appropriate statutory provisions and case law, I make the following:

### **FINDINGS**

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On October 14, 2003, the relationship of employee-employer-carrier existed among the parties.
3. On October 14, 2003, the claimant earned wages sufficient to entitle him to weekly compensation benefits at the maximum applicable rate.
4. On October 14, 2003, the claimant did not sustain an injury arising out of and in the course of his employment.

### **CONCLUSIONS**

In the instant claim, claimant was employed by respondents, initially in 1978, and worked continuously for thirteen years or until 1991. Claimant returned to the employment of respondents in January 1992, and continues to do so. Claimant maintains that as a result of a gradual onset injury he sustained bilateral carpal tunnel syndrome which required medical treatment as of October 14, 2003, and for which respondents are liable, to include an subsequent period of incapacitation. Respondents deny the compensability of this claim. The present claim, as asserted by claimant, is one governed by the provisions of Act 796 of 1993, in that claimant asserts entitlement to workers' compensation benefits as a result of an injury having been sustained subsequent to the effective date of the afore provision.

While claimant discharged the duties of a winding operator, which entailed rapid

repetitive motion, there is no documentary evidence reflecting claimant complained to personnel of respondents relative to his hands/wrists relative to his employment activity prior to December 2, 2003. Claimant was involved in a non-work related automobile accident in February 2003, in which he suffered cervical injuries. The credible evidence in the record reflects that it was as a result of medical treatment for injuries growing out of the automobile accident that claimant registered complaints of numbness, pain and tingling in his wrists/hands to medical providers in 2003.

Dr. Rebecca Barrett-Tuck, a Jonesboro neurosurgeon, assessed the claimant's hands/wrists complaints as carpal tunnel syndrome during a visit by the claimant for treatment relative to the cervical injury growing out of the February 2003, motor vehicle accident. After obtaining the results of diagnostic studies, which included a EMG/nerve conduction study, claimant was diagnosed with mild bilateral carpal tunnel syndrome. Further, based on the history elicited from the claimant, Dr. Barrett-Tuck related the claimant's complaint to his employment with respondents.

Dr. Barrett-Tuck was unaware at the time of her initial contact with the claimant of a prior diagnosis of mild bilateral carpal tunnel syndrome, based of EMG/nerve conduction study of January 7, 1993. The medical history of the claimant, based of VA records, disclosed additional factors that impacted on claimant's carpal tunnel syndrome. As a consequence of the afore, Dr. Barrett-Tuck was unable to render an opinion relative to the nexus of the claimant's mild bilateral carpal tunnel syndrome to he is work at respondents.

In order to prevail on a carpal tunnel syndrome claim, a claimant must prove by a preponderance of the evidence that he sustained an injury causing internal or external harm to the

body which arose out of and in the course of his employment which required medical services or resulted in disability or death, Ark. Code Ann. § 11-9-102 (4) (A) (ii) and § 11-9-102 (4) (E)(ii); that the injury was the major cause of the disability or need for treatment, Ark. Ann. Code § 11-9-102 (4) (ii)(a) and § 11-9-102 (4)(E)(ii); the compensable injury must be established by medical evidence supported by objective findings as defined in subsection (16) of this section, Ark. Code Ann. § 11-9-102 (4) (D); and the medical opinion addressing compensability must be stated within a reasonable degree of medical certainty, Ark. Code Ann. § 11-9-102 (16) (B).

If the claimant fails to establish by a preponderance of the credible evidence any of the requirements for establishing the compensability of the alleged injury, he fails to establish the compensability of the claim and the claim must be denied. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W. 2d 876 (1997). In the instant claim, claimant has failed to sustain his burden of proof by a preponderance of the evidence that carpal tunnel arose out of and in the course of his employment. This claim is respectfully denied and dismissed.

**IT IS SO ORDERED.**

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**Andrew L. Blood, Administrative Law Judge**