



Carpel Tunnel Syndrome (CTS)

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There are two types of injuries under law. Accidents are discrete immediate events. Disablements arise out of and in the course of employment, where the physical demands of your work represent the injuring process. Many members don't realize a **disablement** is a compensable injury. Very simply, there is something about the physical demands of electrical work (kneeling, lifting, squatting, overhead work, repetitive & forceful forearm/wrist movements, pushing/pulling) which over time are disagreeable and affect our bodies. All of these work activities place stress on some part of your body. In time, the weak link breaks down. Just like the Chinese water and stone proverb, our work wears away our body.

One of the most frequent types of **cumulative trauma** injuries is Carpel Tunnel Syndrome or CTS. Local 353 processes many CTS claims which are not restricted to one age group or sector of the trade. The key thing to remember with CTS are the unique symptoms, such as tingling in the hand(s), loss of grip strength and fine motor control, and nocturnal pain/numbness in the arms/hands. At some point the symptoms become severe and medical treatment is sought, usually after the symptoms have been present for a long time. As males, we tend to be stubborn and ignore these complaints until we start dropping coffee cups or tools.

Generally speaking, Local 353 has a good track record linking CTS to work activities. Something you should watch out for is that your injury (medical problem) is properly reported to the WSIB and your employer. This usually takes place after medical treatment or a confirmed diagnosis has been made (EMG test). EMG tests results are the gold standard the WSIB uses in confirming a CTS diagnosis. It should also be noted that many physicians will assess a patient and make a provisional CTS diagnosis based on a clinical examination. Please note that family physician prognostications or not necessarily conclusive for the WSIB. WSIB likes to see EMG test results that confirm the existence of nerve conduction problems.

Legally, the requirement to file a WSIB claim begins once CTS has been diagnosed and a work relationship confirmed. Under the Workplace Safety and Insurance Act, Sec 22, a worker must file a WSIB claim within 6 months of becoming aware of a work related injury or disease. Don't be mistaken, this does not mean injuries are not to be reported immediately

Another area of controversy with CTS claims is that there is no date of accident in the traditional sense, so the WSIB uses the date of diagnosis. It's important to remember that the date of accident triggers the reporting provisions of the *Workplace Safety and Insurance Act*, and who is considered the accident employer of record.

This is a common adjudicative approach that has been challenged by the Tribunal in Decision 500/06. With many LU 353 members who migrate between contractors, it often happens that a worker will have been employed by an earlier contractor when the CTS first emerged and was diagnosed. Typically, the accident employer of record would be the employer who the worker was working for when he/she first received medical attention for the condition. However, a recent WSIB Tribunal has looked at the situation somewhat differently.

Legally, the WSIB has the authority under *WSIA* s. 22 to deem a workers claim abandoned if a claim is not filed within the 6 month period. So if you fail to report, your claim can be denied.

Another confounding factor is the worker may have been symptomatic for months or years but managed to continue working in a stoic manner until the condition was more

- [54] This Panel agrees with the Vice-Chair in *Decision No. 210/01*, that there are circumstances in which it would be appropriate to consider initial medical treatment as the date of injury. In other circumstances, the result of doing so may lead to a result that is inconsistent with the Act.
- [55] In the appeal, this Panel is considering the worker continued to perform his regular job duties until the date of his surgery. We agree that the worker saw Dr. Marien on December 13, 2001. However, we find it significant that the worker's hands were not the reason for the visit and Dr. Marien apparently did not consider the condition of the worker's hands sufficiently serious to warrant the submission of a Physician's First Report to the Board. The worker continued to work after that visit. Even though both hands were symptomatic, they did not disable the worker from working.
- [56] The Panel members are satisfied that the injuring process was ongoing when the worker was employed by employers 1 and 2, and the third employer.

than a nuisance. This situation has arisen where a members CTS claim (or other injuries) may be statute barred because the WSIB rules the worker should have filed a WSIB claim much earlier.

Members should also be aware that their CTS claims are also challenged by looking to your non-work related activities which may pose a risk factor on the onset of CTS i.e., does the worker bowl or restore vintages cars?

Critically important in getting your WSIB claim approved is obtaining a medical opinion from the Plastic Surgeon whether the *physical demands* of your occupation were a significant contributing factor in the onset of your CTS symptoms. Local 353 will write your specialist and provide a job description and physical demands analysis so your doctor can make an informed judgement regarding work causation.

The current medical literature at the Workplace Safety and Insurance Appeals Tribunal looks at work risk factors this way. Dr. Brent Graham concluded that work tasks must be "**repetitive**" and involve "**forceful movements**". Fortunately, this two-fold test is really not a problem for Local 353 members since the work of an electrician recruits both, regardless of the sector you work in.

As a final note CTS occurs in the general population with, or without, occupational risk. In fact, 50% of all diagnosed CTS patients spontaneously develop CTS without work aggravation. That is why the WSIB carefully scrutinizes all CTS claims by probing a worker's employment and medical history to assess the role of work in relation to the onset of symptoms, and whether there are non-compensable pre-existing conditions contributing to the problem, such as diabetes.

All members who suspect they have or have been diagnosed with CTS, should contact Gary Majesky, at the Local 353 WSIB Service or gary_wsib@ibew353.org



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