

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>LEONOR RANGEL</b>	)	
Claimant	)	
	)	
VS.	)	
	)	
<b>BELL &amp; CARLSON, INC.</b>	)	
Respondent	)	Docket No. 1,001,652
	)	
AND	)	
	)	
<b>LIBERTY MUTUAL INSURANCE</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant requested review of the May 20, 2004 Award by Administrative Law Judge Pamela J. Fuller. The Appeals Board (Board) heard oral argument on September 8, 2004.

**APPEARANCES**

Conn Felix Sanchez, of Kansas City, Kansas, appeared for the claimant. Terry J. Malone, of Dodge City, Kansas, appeared for respondent and its insurance carrier (respondent).

**RECORD AND STIPULATIONS**

The Board has considered the record and adopted the stipulations listed in the Award.

**ISSUES**

The Administrative Law Judge (ALJ) concluded claimant sustained a 17.5 percent permanent partial impairment to the left upper extremity at the level of the shoulder as a result of her repetitive work activities. Consequently, claimant was not entitled to work

disability benefits and is limited to those benefits available for scheduled injuries under K.S.A. 44-510d.

The claimant requests review of this finding. Claimant alleges her work activities gave rise to an injury to her body as a whole. Accordingly, she contends the ALJ erred in not granting her a 62.5 percent work disability as provided in K.S.A. 44-510e based upon a 100 percent wage loss and a 25 percent task loss.

Respondent contends the ALJ correctly concluded claimant sustained solely a scheduled injury to her left upper extremity at the shoulder level and as a result, the ALJ's Award should be affirmed in all respects.

The only issue for determination is the nature and extent of claimant's impairment. Specifically, whether claimant sustained a scheduled injury or an injury to her body as a whole, including work disability as provided in K.S.A. 44-510e as a result of her work-related accident.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs and oral arguments, the Board makes the following findings of fact and conclusions of law:

Claimant was employed by respondent where her job duties involved repetitively sanding rifle stocks with her right hand while holding them with her left. She performed this job from February 2001 up to April 28, 2003, when she was laid off from work.

During the course of her employment, claimant noticed weakness in her right hand as well as swelling in the left wrist and radiating pain up to the shoulder. She was treated by Dr. Alok Shah who diagnosed a ganglion cyst over the left dorsum of the wrist and de Quervain's tendonitis of the left thumb. In November 2001, Dr. Shah performed a de Quervain's release as well as a decompression of the superficial branch of the radial nerve.

Following the surgery, claimant continued to voice complaints of pain in her left forearm, although, Dr. Shah noted claimant's range of motion was satisfactory and her incisions had healed. Claimant was released to return to work on January 8, 2002, but her complaints of diffuse pain in her left upper extremity continued. She returned to see Dr. Shah in August 2002. He provided her with pain medications and recommended she return to see him in two months. Dr. Shah saw her again in January 2003. Claimant continued to complain of unusual symptoms in her left upper extremity and as a result, Dr.

Shah made a “provisional diagnosis” of reflex sympathetic dystrophy (RSD).<sup>1</sup> Dr. Shah ordered a MRI, which was done in March 2003. The MRI revealed mild disk protrusion at multiple levels in the cervical spine. In May 2003, claimant was seen again by Dr. Shah and reported her neck symptoms had improved, but that her left hand complaints continued.

Dr. Shah was deposed regarding his course of care, but was not asked nor did he offer any opinions as to claimant’s functional impairment or her alleged task loss. Dr. Shah also failed to comment on the causative aspects of claimant’s neck complaints, although at oral argument claimant’s counsel suggested that one can assume from his testimony that Dr. Shah believes claimant’s neck complaints are due to her work activities.

In February 2003, at her counsel’s request, claimant was evaluated by Dr. Sergio Delgado. Dr. Delgado concluded claimant was suffering from a cumulative trauma disorder, which resulted in stenosing tenosynovitis of the first extensor dorsal compartment of the wrist due to her work-related activities.<sup>2</sup> He concluded claimant had not achieved maximum medical improvement and recommended she undergo a series of nerve entrapment studies. Thereafter, on June 3, 2003, Dr. Delgado issued a written report assigning a 19 percent permanent partial impairment to claimant’s left upper extremity based upon the American Medical Ass’n, *Guides to the Evaluation of Permanent Impairment*, (4<sup>th</sup> ed.) (*Guides*).<sup>3</sup> Dr. Delgado recommended claimant avoid gripping, pinching, and heavy lifting exceeding 10 pounds using her left hand.

In November 2003, also at her counsel’s request, claimant was evaluated by Dr. Michael H. Munhall. Dr. Munhall diagnosed claimant with cervical derangement with a left C6 radiculopathy, as well as multiple problems in the left hand and wrist. He did not perform any diagnostic tests, but instead based his opinions upon his examination. Following his examination, he assigned a 15 percent whole body impairment for the cervical derangement and left C6 radiculopathy, as well as an additional 10 percent to the left upper extremity for an irritation to the left superficial radial nerve and a 4 percent to the left upper extremity for her reduced left wrist flexion and extension. When combined, this yields a 22 percent to the body as a whole. He also imposed a variety of left hand/arm restrictions including no climbing ladders, no use of repetitive hand controls, no grasping/grabbing, no work above shoulder level, no use of vibratory tools, hand intensive

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<sup>1</sup> Shah Depo., Ex. 1 at 5.

<sup>2</sup> Delgado Depo at 9; Ex. 2 at 5.

<sup>3</sup> American Medical Ass’n, *Guides to the Evaluation of Permanent Impairment*, (4<sup>th</sup> ed.). All references are to the 4<sup>th</sup> ed. of the *Guides* unless otherwise noted.

labor, no use of hooks or knives and to avoid work more than 24 inches from the body. He also cautioned claimant to avoid awkward positions of the neck.<sup>4</sup>

Dr. Munhall was also asked to comment on the claimant's task loss based upon a task list prepared by Dick Santner. According to Dr. Munhall, claimant is unable to perform 1 of the 4 tasks outlined in Mr. Santner's report, leaving claimant with a 25 percent task loss.<sup>5</sup>

In March 2004, at the request of respondent, claimant was examined Dr. C. Reiff Brown. Dr. Brown diagnosed an overuse syndrome on the left caused by claimant's work for respondent. Dr. Brown also diagnosed de Quervain's tendonitis as well as tenosynovitis of the thumb and left rotator cuff tendonitis. Dr. Brown identified mild to moderate degenerative changes in claimant's mid-cervical area, but concluded those were not related to claimant's work injury. He also testified that claimant was not suffering from RSD. Dr. Brown assigned a 16 percent permanent partial impairment to claimant's left upper extremity as a result of the work-related injury based on the 4<sup>th</sup> edition of the *Guides*.

After reviewing all of the evidence offered by the parties the ALJ assigned a 17.5 percent permanent partial impairment to claimant's left upper extremity as a result of her work-related accident. This figure represents an average of the two upper extremity impairment ratings offered by Drs. Delgado and Brown. The ALJ expressly rejected Dr. Munhall's opinion that the cervical derangement he diagnosed was related to claimant's work activities. The Board has considered this finding as well as the record as a whole and agrees with the ALJ's conclusions. The ALJ's 17.5 percent permanent partial impairment to the left upper extremity is affirmed.

All other findings and conclusions contained within the ALJ's Award are affirmed to the extent they are not modified herein.

### **AWARD**

**WHEREFORE**, it is the finding, decision and order of the Board that the Award of Administrative Law Judge Pamela J. Fuller dated May 20, 2004, is affirmed.

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<sup>4</sup> Munhall Depo., Ex. 2 at 6 (September 10, 2003 IME Report).

<sup>5</sup> *Id.* at 6.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of September 2004.

\_\_\_\_\_  
BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Conn Felix Sanchez, Attorney for Claimant  
Terry J. Malone, Attorney for Respondent and its Insurance Carrier  
Pamela J. Fuller, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director