

wrists to his employer and was advised to seek medical treatment and to submit the costs for payment under the employer's workers compensation coverage.

Claimant initially was treated conservatively by Dr. Clarence R. Hart of the Hutchinson Clinic with volar wrist splints. Claimant did not obtain any relief from his pain and numbness symptoms with the splints and was referred to a neurologist, Dr. William M. Mallonee, for nerve conduction studies of his upper extremities. These test results were abnormal, indicating bilateral median nerve entrapment neuropathy of both wrists. Dr. Mallonee diagnosed bilateral carpal tunnel syndrome confirmed by nerve conduction velocity studies.

Claimant was subsequently referred to Dr. Robert A. Rawcliffe, Jr., orthopedic surgeon. He concluded that claimant did not have clear-cut evidence of carpal tunnel syndrome. Despite the fact that the nerve conduction studies were reported as showing carpal tunnel syndrome, Dr. Rawcliffe felt surgical release would be ill advised. He was not able to find evidence of any permanent injury resulting from the incident described and, consequently, found no need for any type of work restrictions. He suspected some underlying psychological factors to be involved.

Claimant was referred by his attorney to orthopedic surgeon C. Reiff Brown, M.D., who diagnosed bilateral carpal tunnel syndrome. He agreed with Dr. Rawcliffe that the claimant's mode of onset of his carpal tunnel was not typical. Whereas carpal tunnel syndrome is ordinarily the result of overuse and is progressive over a period of time, claimant's symptoms resulted from a single day's work without any previous difficulty with his hands. Dr. Brown concluded: "If it is assumed that this man's history is accurate one must also assume that the work activity that he described did produce enough synovitis or capsular change in the wrist joints to further decrease volume of the carpal tunnels to precipitate the full blown syndrome as we see it in his particular case."

Following the preliminary hearing of November 16, 1995, the Administrative Law Judge ordered an independent medical examination to be performed by Dr. J. Mark Melhorn. The findings by Dr. Melhorn are problematic. He concurs with Dr. Brown in diagnosing bilateral carpal tunnel syndrome. However, he also concurs with Dr. Rawcliffe in that it is unlikely that claimant developed his carpal tunnel syndrome based upon the two to three hours of strenuous activities on the alleged accident date. Dr. Melhorn concludes that claimant most likely had a preexisting carpal tunnel condition prior to his employment with the respondent.

The Administrative Law Judge found that claimant's preexisting carpal tunnel syndrome was rendered symptomatic by the strenuous physical activity of his employment with respondent on July 18, 1995. Accordingly, the claimant's burden of proving that claimant's injuries arose out of and in the course of his employment with respondent was found to have been sustained for purposes of preliminary hearing.

The Appeals Board agrees with the findings and conclusions of the Administrative Law Judge. It is well settled in this state that an accidental injury is compensable where the accident only serves to aggravate or accelerate an existing disease or intensifies the affliction. Harris v. Cessna Aircraft Co., 9 Kan. App. 2d 334, 678 P.2d 178 (1984); Demars v. Rickel Manufacturing Corporation, 223 Kan. 374, 573 P.2d 1036 (1978).

Based upon the evidence in the record as it now exists, the claimant has met his burden of proving accidental injury on or about July 18, 1995 and that said injury arose out of and in the course of his employment with the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the January 25, 1996 Order of Administrative Law Judge Bruce E. Moore should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of March 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Andrew L. Oswald, Hutchinson, KS
- Douglas C. Hobbs, Wichita, KS
- Bruce E. Moore, Administrative Law Judge
- Philip S. Harness, Director