

ILLINOIS WORKERS' COMPENSATION COMMISSION  
NOTICE OF 19(b) ARBITRATOR DECISION

**POWELL, DIANA**

Employee/Petitioner

Case# **15WC028520**

15WC028633

**GALESBURG CUSD#205**

Employer/Respondent

On 1/6/2016, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.50% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

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5354 STEPHEN P KELLY  
2710 N KNOXVILLE AVE  
PEORIA, IL 61604

0000 WHITT LAW LLC  
BRIAN P WOJCICKI  
225 E COOK ST  
SPRINGFIELD, IL 62704

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STATE OF ILLINOIS )  
 )SS.  
COUNTY OF PEORIA )

<input type="checkbox"/>	Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/>	Rate Adjustment Fund (§8(g))
<input type="checkbox"/>	Second Injury Fund (§8(e)18)
<input checked="" type="checkbox"/>	None of the above

**ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION  
19(b)**

**Diana Powell**  
Employee/Petitioner

Case # **15 WC 28520**

v.

Consolidated cases: **15 WC 28633**

**Galesburg CUSD#205**  
Employer/Respondent

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Anthony C. Erbacci**, Arbitrator of the Commission, in the city of **Peoria**, on **November 16, 2015**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

**DISPUTED ISSUES**

- A.  Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
- B.  Was there an employee-employer relationship?
- C.  Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
- D.  What was the date of the accident?
- E.  Was timely notice of the accident given to Respondent?
- F.  Is Petitioner's current condition of ill-being causally related to the injury?
- G.  What were Petitioner's earnings?
- H.  What was Petitioner's age at the time of the accident?
- I.  What was Petitioner's marital status at the time of the accident?
- J.  Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
- K.  Is Petitioner entitled to any prospective medical care?
- L.  What temporary benefits are in dispute?  
 TPD       Maintenance       TTD
- M.  Should penalties or fees be imposed upon Respondent?
- N.  Is Respondent due any credit?
- O.  Other

**FINDINGS**

On the date of accident, **February 4, 2015**, Respondent *was* operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.

On this date, Petitioner *did* sustain an accident that arose out of and in the course of employment.

Timely notice of this accident *was* given to Respondent.

Petitioner's current condition of ill-being *is* causally related to the accident.

In the year preceding the injury, Petitioner earned **\$23,555.36**; the average weekly wage was **\$603.98**.

On the date of accident, Petitioner was **68** years of age, *single* with **0** dependent children.

Respondent *has not* paid all reasonable and necessary charges for all reasonable and necessary medical services.

**ORDER**

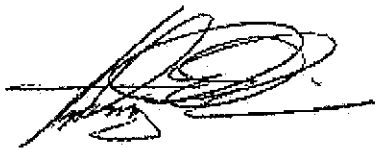
Respondent shall pay the reasonable and necessary expenses associated with the medical care and treatment provided to her by Dr. Williams, as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall authorize and pay the reasonable and necessary expenses associated with the bi-lateral carpal tunnel surgeries prescribed for her by Dr. Williams, as provided in Sections 8(a) and 8.2 of the Act.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

**RULES REGARDING APPEALS** Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

**STATEMENT OF INTEREST RATE** If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.



Arbitrator Anthony C. Erbacci

**December 31, 2015**  
Date

**JAN 6 - 2016**

## **FACTS:**

On February 4, 2015 the Petitioner was employed by the Respondent as a bus driver, having been so employed for approximately seventeen years. The Petitioner described that she drove a diesel "mini-bus" approximately six to eight hours each work day and used a mechanical device with her right hand to open and close the bus door. The Petitioner described that the steering wheel of the bus vibrated and that it took a certain amount of force to open and close the bus door.

The Petitioner testified that on February 4, 2015 she was in her bus, returning some students to their school, when her bus was struck from behind by another vehicle. The Petitioner described that she was stopped at an intersection at the time and that the impact of the crash was significant. The Arbitrator notes that the pictures of the bus after the impact (PX5) demonstrate that the impact was significant enough to cause the rear bumper of the bus to be noticeably dented inward. The Petitioner also described that at the time of the accident she had both of her hands on the steering wheel and that she felt a jarring to her wrists and neck and felt a whiplash-type injury. The Petitioner testified that none of the children on the bus was injured.

The Petitioner testified that following the accident, she called her supervisor, Paulette Earp, and reported the accident and then completed her route. The Petitioner testified that when she arrived at the school to drop off the children, Jeff Houston, another employee of the Respondent came out to the bus and she advised Mr. Houston that she felt like she had sustained a whiplash-type injury as a result of the motor vehicle accident. The Petitioner testified that she also had a conversation with Karen Addis, another employee of the Respondent who has responsibility for insurance related matters, and described the accident and the soreness she was feeling. The Arbitrator notes that both Paulette Earp and Karen Addis confirmed that Petitioner's testimony that she advised them of the motor vehicle accident that had occurred on February 4, 2015. The Petitioner testified that she was then sent by the Respondent to be seen at OSF Occupational Health.

The records of OSF Occupational Health demonstrate that the Petitioner was seen there on February 4, 2015 and provided a history of the motor vehicle accident consistent with her testimony. It was noted that the Petitioner reported that she "snapped her head and she felt like she tightened up on the steering wheel." The Petitioner was diagnosed with a cervical strain, restricted from work the next day, and prescribed medication. On February 6, 2015 the Petitioner followed-up and was noted to report having some soreness but no pain. She was also noted to have no numbness in her hands, no coordination problems, and no pain shooting down her arms. The Petitioner was discharged and returned to regular work at that time.

The Petitioner testified that she returned to her regular work but the symptoms in her hands continued to worsen. The Petitioner testified that she complained about her symptoms but she continued to work her regular job.

On April 9, 2015 the Petitioner sought treatment for her hand complaints from Dr. James Williams at Midwest Orthopedic Center. Dr. Williams noted that the Petitioner had been driving a school bus with a vibratory steering wheel for the last 17 years and that she had mild numbness and tingling in her hands which became much worse after an accident in February of 2015. Dr. Williams' assessment was that the Petitioner had carpal tunnel syndrome and he ordered a nerve conduction

study.

On April 17, 2015 the Petitioner underwent nerve conduction studies of her bilateral upper extremities which were reported to demonstrate findings consistent with a moderate carpal tunnel syndrome on the left side and a mild carpal tunnel syndrome on the right side.

The Petitioner followed up with Dr. Williams on April 27, 2015. Dr. Williams noted that as a school bus driver the Petitioner used her right hand to open and close the door of the bus and she used her left hand constantly on the steering wheel. Dr. Williams also noted that the Petitioner's accident in February 2015 aggravated her mild numbness and tingling symptoms. After review of the EMG/NCV report, Dr. Williams concluded that the study showed moderate left and mild right carpal tunnel syndrome, and he opined that due to the vibration of the steering wheel and the number of years she worked as a bus driver the Petitioner's carpal tunnel was at least aggravated, if not caused, by her work duties. Dr. Williams recommended bi-lateral carpal tunnel release surgeries for the Petitioner.

The Petitioner testified that she discussed the surgical recommendation with Paulette Earp and that she also advised Ms. Earp of Dr. Williams' causation opinion but she did not specify exactly when that discussion occurred. A time off record confirms that the Petitioner took time off work on April 17 and 27, 2015 for doctor appointments, but there is no specific indication as to the reason for those doctor appointments. Both the Petitioner and Ms. Earp testified that in May 2015, the Petitioner informed Ms. Earp that she would not be available to drive during the summer months because she wanted to undergo bilateral carpal tunnel surgery but Ms. Earp testified that the Petitioner did not indicate that the treatment was related to any work accident.

The Petitioner returned to her regular work after the summer of 2015 and, on August 31 2015, an accident report was completed by Karen Addis Frakes. The report indicates a date of accident of April 27, 2015 but also indicates that February 4 or 5, 2015 was the "date of accident". The report indicates that the nature of the injury was "whiplash", that the object responsible for the injury was "steering wheel" and that the accident occurred when "rear ended by vehicle". The Petitioner signed the report and wrote "Feb 4 2015" next to an "Additional Comment" written by Ms. Addis Frakes that "Diana feels there is a typo in paperwork as only one (1) accident date." (Rx 5)

Thereafter, the Petitioner continued to work full duty for the Respondent and she has missed no additional time from work as a result of her condition. The Petitioner testified that she currently continues to have some stiffness in her neck as well as numbness and tingling in both of her hands.

The October 29, 2015 evidence deposition testimony of Dr. James Williams was admitted into the record as Petitioner's Exhibit 4. Dr. Williams testified regarding his April 2015 treatment of the Petitioner, her causally related symptoms, and his surgery recommendations. Dr. Williams testified that Petitioner's co-morbidities made it more likely that the Petitioner could develop carpal tunnel conditions related to her bus driving activities and he opined that the February 4, 2015 motor vehicle accident aggravated the Petitioner's pre-existing carpal tunnel condition. Dr. Williams further opined that the Petitioner's work activities could also have caused or aggravated her bi-lateral carpal tunnel syndrome. Dr. Williams explained that constant gripping of the vibratory steering wheel with her left hand likely contributed to greater symptoms in her left wrist than her right hand, which is used

occasionally to pull open the passenger door with a lever. Dr. Williams testified that the Petitioner's current condition of ill-being was causally related to her work her work activities and that the Petitioner was a surgical candidate and needed bi-lateral carpal tunnel release surgeries.

No medical testimony or opinions from any other physicians was offered into the record.

## **CONCLUSIONS:**

### **In Support of the Arbitrator's Decision relating to (C.), Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent, the Arbitrator finds and concludes as follows:**

The evidence presented clearly demonstrates that the Petitioner was involved in a motor vehicle accident while she was performing the regular duties of her employment with the Respondent on February 4, 2015. The Petitioner sought medical treatment immediately following the accident at OSF Occupational Health where she provided a history of the motor vehicle accident consistent with her testimony. It was noted that the Petitioner reported that she "snapped her head and she felt like she tightened up on the steering wheel." The Petitioner was diagnosed with a cervical strain, restricted from work the next day, and prescribed medication.

Based upon the foregoing, and having considered the totality of the evidence presented as well as the relevant statutory provisions and case law, the Arbitrator finds that on February 4, 2015, and accident did occur that arose out of and in the course of the Petitioner's employment by the Respondent.

### **In Support of the Arbitrator's Decision relating to (E.), Was timely notice of the accident given to Respondent, the Arbitrator finds and concludes as follows:**

The Petitioner testified that she reported the accident to her supervisor, Paulette Earp, immediately after it occurred and to Karen Addis Frakes later that same day. The Petitioner's testimony in that regard was credible and was not contradicted or rebutted.

Based upon the foregoing, and having considered the totality of the evidence presented as well as the relevant statutory provisions and case law, the Arbitrator finds that timely notice of the accident was given to the Respondent.

### **In Support of the Arbitrator's Decision relating to (F.), Is Petitioner's current condition of ill-being causally related to the injury, (J.), Were the medical services that were provided to Petitioner reasonable and necessary/Has Respondent paid all appropriate charges for all**

**reasonable and necessary medical services, and (K.), Is Petitioner entitled to any prospective medical care, the Arbitrator finds and concludes as follows:**

Dr. Williams, the Petitioner's treating physician, opined that the February 4, 2015 motor vehicle accident aggravated the Petitioner's pre-existing carpal tunnel condition. Dr. Williams further opined that the Petitioner's work activities could also have caused or aggravated her bi-lateral carpal tunnel syndrome. Dr. Williams explained that constant gripping of the vibratory steering wheel with her left hand likely contributed to greater symptoms in her left wrist than her right hand, which is used occasionally to pull open the passenger door with a lever. Dr. Williams testified that the Petitioner's current condition of ill-being was causally related to her work her work activities and that the Petitioner was a surgical candidate and needed bi-lateral carpal tunnel release surgeries. No medical testimony or opinions from any other physicians was offered into the record.

The Arbitrator finds that the testimony and opinions of Dr. Williams were sufficiently credible, reliable, and persuasive to satisfy the Petitioner's burden of proof in the instant matter. No medical opinions or testimony which contradicted, rebutted, or challenged Dr. Williams' opinions was offered into the record.

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Based upon the foregoing, and having considered the totality of the evidence presented as well as the relevant statutory provisions and case law, the Arbitrator finds that the Petitioner's current condition of ill-being is causally related to the work injury of February 4, 2015. The Arbitrator further finds that the medical care and treatment rendered to the Petitioner by Dr. Williams, as well as the surgical procedures recommended for the Petitioner by Dr. Williams, are reasonable, necessary, and causally related to the Petitioner's work injury of February 4, 2015.

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