

STATE OF ILLINOIS )  
 )SS.  
COUNTY OF Cook )

<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**

**Casimir Siwak**

Employee/Petitioner

Case # **06 WC 17173**

v.

Consolidated cases: \_\_\_\_\_

**ITT Bell & Gossett**  
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 **Kurt Carlson**, Arbitrator of the Commission, in the city of **Chicago**, on **11-30-07**. 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.  What temporary benefits are in dispute?  
 TPD       Maintenance       TTD
- L.  What is the nature and extent of the injury?
- M.  Should penalties or fees be imposed upon Respondent?
- N.  Is Respondent due any credit?
- O.  Other Whether Respondent is liable for the Petitioner's outstanding medical bills?

**FINDINGS**

On 02-24-06, 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 \$ 45,013.80; the average weekly wage was \$ 865.65.

On the date of accident, Petitioner was 39 years of age, *married* with 0 dependent children.

Petitioner *has not* received all reasonable and necessary medical services.

Respondent shall be given a credit of \$ 0 for TTD, \$ 0 for TPD, \$ 0 for maintenance, and \$ 2,612.19 for other benefits, for a total credit of \$ 2,612.19.

Respondent is entitled to a credit of \$ 0 under Section 8(j) of the Act.

**ORDER**

The respondent shall pay the Petitioner Temporary Total Disability benefits of \$ 577.10 / week for 7.857 weeks, from 02-25-06 through 04-20-06, which is the period of for which compensation is payable.

Respondent shall pay the Petitioner the sum of \$ 519.39 / week for a further period of 50 weeks, as provided in Section 8(d)2 of the Act, because the injuries sustained caused permanent partial disability to the Petitioner to the extent of 10% of a person as a whole.

Respondent shall pay the further sum of \$ 15,827.18 for necessary medical services, as provided in Section 8(a) of the Act.

**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.

\_\_\_\_\_  
Signature of Arbitrator

\_\_\_\_\_  
Date

STATE OF ILLINOIS )  
 )  
COUNTY OF  Cook  )

ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION

CASIMIR SIWAK Case # 06 WC 17173  
Employee/Petitioner

v.

ITT BELL & GOSSETT  
Employer/Respondent

FINDINGS OF FACT

The Petitioner testified that he began working for the Respondent in approximately 1995. For the last ten years, the Petitioner has worked as a welder for the Respondent.

The Petitioner described that he welds all types of metals during the course of his employment, some of which are small, but others are very heavy. The Petitioner related that he has to perform his job in awkward positions. He also has to maneuver welding equipment, which can weigh up to two hundred pounds.

The Petitioner also stated that his job involves welding I-Beams, which are large pieces of steel. Although he has cranes that hoist up and move these large items, he has to push and pull on them to maneuver them into position.

The Petitioner stated that he works the second shift, beginning at 2:00 p.m., and he is the only welder assigned at that time. The Petitioner further related that he had been working considerable overtime before February 24, 2006.

The Petitioner testified that he went into work on February 24, 2006, at about 2:00 p.m. The Petitioner related that he was taking 800mg of Ibuprofen at that time due to a prior injury he had sustained to one of his fingers.

The Petitioner specifically stated that on the day he went to work, he was not experiencing any problems with his back, he was not on any restrictions for his back, and he was not taking any medication for that area of his body.

The Petitioner further related that on February 24, 2006, he performed several different welding jobs. The first involved assembling weldments. The Petitioner stated that these are smaller parts, but that when welded together, weigh approximately eighty pounds. The Petitioner stated that there is a lot of lifting and turning involved with assembling the weldments. The Petitioner indicated that he spent about five hours performing that aspect of his job while standing on a concrete floor.

After assembling the weldments, the Petitioner finished welding a frame. The Petitioner stated that he had to climb onto a table in order to complete this task. This particular job lasted about two and a half to three hours, and he was doing the welding work in an awkward position. He then jumped off the table, landing on a concrete floor.

The Petitioner indicated that the last job that he worked on was cutting I-Beams. The Petitioner stated that each I-Beam weighed seven hundred pounds. He had two of them on a cart. He used a crane to lift them, but he had to push and pull them in order to get them into place. The Petitioner related that while maneuvering the second one, he lost control of it, and as he tried to grab it, it jerked him forward. This incident occurred about forty-five minutes prior to

the end of his shift on February 24, 2006. The Petitioner testified that he did not notice anything unusual about his back at that time, and he continued his workday.

The Petitioner stated that when he left work on February 24, 2006, he drove to a Taco Bell and obtained food through the drive-thru window, and then went immediately home. The Petitioner estimated that it only took him about forty-five minutes to reach his home. He was not involved in any accidents, nor did he strike any significant potholes on the way home.

The Petitioner related that when he opened the car door, he noticed extreme stiffness and pain in his low back, and it was difficult for him to exit his vehicle. His wife noticed that he was having a problem, and opened the front door to help him into the house. The Petitioner stated that after he ate his food, he took a muscle relaxer, which was left over from a prior visit to his primary care physician, and went immediately to bed.

When the Petitioner awoke the next morning, on February 25, 2006, he noticed that the entire left side of his body was in spasm, and he had severe pain going down his left leg. The Petitioner reported that he had never experienced those types of symptoms previously. The Petitioner indicated that his wife drove him to Good Samaritan Hospital, where he received treatment in the Emergency Room.

According to the records from Good Samaritan Hospital, the Petitioner denied any trauma, and indicated that he had difficulty getting out of bed that morning due to back and left leg pain (Px. #18). An MRI Scan was performed at the Hospital, which showed a herniated disc at L5-S1 on the left side, with an extruded fragment, which protruded and extended to the left S1 nerve root (Px. #18). The doctor at the hospital advised the Petitioner not to return to work until he was examined by Dr. Castillo, his primary care physician (Px. #18).

The Petitioner testified that he called work and advised Mr. Fogel, the Safety Director, that he was having back pain and needed to take time off from work. The Petitioner saw Dr. Castillo on February 27, 2006. The Petitioner advised Dr. Castillo that he experienced low back pain while on his way home from work on February 24, 2006 (Px. #13). Dr. Castillo noted in his records, that the Petitioner does a lot of heavy lifting at work, and does that activity in awkward positions (Px. #13). Dr. Castillo referred the Petitioner to Dr. Thomas Brown, a neurosurgeon at CINN.

The Petitioner was first examined by Dr. Brown on March 14, 2006. The Petitioner advised Dr. Brown that his back and left leg problems were definitely related to his work activities, and that the symptoms commenced on February 24, 2006 (Px. #12). The Petitioner described to Dr. Brown that his job involves heavy lifting, climbing and crawling (Px. #12).

Dr. Brown recommended that the Petitioner undergo epidural steroid injections and selective nerve blocks, along with physical therapy (Px. #12). Dr. Brown advised the Petitioner to remain off work (Px. #12).

The Petitioner started physical therapy at DuPage Physical Therapy on March 15, 2006. That treatment lasted through April 19, 2006, for a total of thirteen sessions (Px. #19).

The Petitioner also underwent his first transforaminal epidural steroid injection on the left side of L5-S1 on March 17, 2006. Dr. Couri, Dr. Brown's associate, performed that procedure (Px. #11).

Following the first epidural steroid injection, the Petitioner returned to Dr. Brown for further medical care. The Petitioner was still complaining of a pins and needles sensation in

the bottom of his left foot (Px. #12). The Petitioner also testified that the physical therapy was not helping his condition.

The Petitioner returned to Dr. Brown on April 10, 2006. Dr. Brown again noted that the Petitioner's job is very physically demanding (Px. #12). For the first time, the Petitioner mentioned to Dr. Brown that on February 24, 2006, while he was attempting to cut a steel I-Beam, he lost control of it and it jerked him forward (Px. #12). When asked why he did not inform Dr. Brown of that event on the prior visits, the Petitioner responded that he was going over his activities on February 24, 2006, and that was the only incident of an unusual nature that occurred that day. Dr. Brown maintained the Petitioner off work at that time (Px. #12).

The Petitioner underwent a second left-sided S1 transforaminal epidural steroid injection, along with a selective nerve block, on April 11, 2006 (Px. #11). Following that injection, the Petitioner concluded his physical therapy on April 19, 2006 (Px. #19). The Petitioner returned to work full duty for the Respondent on April 21, 2006, but he was still having symptoms at that time.

The Petitioner returned to Dr. Brown on May 9, 2006, and complained that his symptoms were reoccurring since he had returned to his regular job (Px. #16). The Petitioner was still expressing symptoms in his left buttock and into the left thigh (Px. #16).

The Petitioner returned to Dr. Brown on June 10, 2006 with ongoing complaints of left sided back discomfort (Px. #16). Dr. Brown, at that time, recommended a third epidural steroid injection, and suggested that if that treatment was unsuccessful, then surgery might be needed (Px. #16).

A third epidural steroid injection was performed on the Petitioner on June 30, 2006 (Px. #11). Following that injection, the Petitioner returned to Dr. Brown on August 8, 2006 (Px. #16). The Petitioner reported to Dr. Brown that he had experienced improvement since the third injection had been performed. However, Dr. Brown ordered the Petitioner to undergo a repeat MRI Scan (Px. #16). The Petitioner underwent that additional testing on August 12, 2006 at Elmhurst Hospital (Px. #17). That testing showed that the disc at L5-S1 was now being reported as merely showing a bulge and not a herniation (Px. #17).

The Petitioner returned to Dr. Brown following the MRI Scan. Dr. Brown reviewed the MRI Scan and concluded that it still showed a central disc bulge at L4-5, and "what I think is still a small disc fragment in the far left lateral recess and medial foramen at L5-S1" (Px. #16). Dr. Brown discussed treatment options with the Petitioner at that time, including performing a microdiscectomy at L5-S1 (Px. #16).

The Petitioner decided not to undergo surgery at that time, and continued working for the Respondent. However, the Petitioner did return to Dr. Brown on January 4, 2007 (Px. #14). At that time, the Petitioner was still complaining to Dr. Brown of occasional left-sided back pain, with symptoms extending into his left buttocks and down the left leg (Px. #14). Dr. Brown still noted limited range of motion with regard to the low back, and prescribed different medication for him (Px. #14). Dr. Brown indicated that the Petitioner may need to undergo a fourth epidural steroid injection (Px. #14). In fact, the Petitioner underwent the fourth S1 transforaminal epidural steroid injection on March 23, 2007 (Px. #11).

The Petitioner testified that he has not returned for any medical treatment for his back since the last injection on March 23, 2007. The Petitioner is still working for the



Respondent as a welder. He is still performing his same job duties, although, at the present, he sometimes now asks for help in performing some of the tasks.

The Petitioner described that at the present time, he still has pain in his left buttocks and down into his left knee. He also has soreness in his low back on a constant basis. However, the Petitioner indicated that the discomfort in his low back and down his left leg is manageable.

The Petitioner testified that he had only had one prior incident involving his low back, and that was on October 31, 2005 when he saw Dr. Castillo with symptoms. The Petitioner indicated that he did not lose any time from work as a result of that visit to the doctor, and he underwent physical therapy for three to four weeks. The Petitioner related that he was not experiencing any ongoing back problems after that treatment.

The Petitioner also admitted to being involved in an automobile accident on September 13, 2006. The Petitioner stated that this particular accident only caused symptoms to his neck. The Petitioner denied any increased pain in his low back as a result of that accident. The Petitioner submitted records into evidence from Elmhurst Memorial Hospital concerning that accident, which corroborate the Petitioner's testimony (Px. #20).

**C. In support of the Arbitrator's Decision as to whether the Petitioner sustained an accident which arose out of and in the course of his employment with the Respondent, the Arbitrator makes the following findings:**

The Arbitrator had the opportunity to observe the Petitioner on this matter when he testified. The Arbitrator concludes that the Petitioner is a very credible witness. The Petitioner's testimony was believable, and, as such, his statements must be accepted as accurate.

The Petitioner testified that although he had one prior incident in October, 2005, where he had experienced back symptoms, he was no longer suffering from any discomfort from that area of his body prior to February 24, 2006. The Petitioner had worked for the Respondent for approximately eleven years as of that date. For ten of those years, the Petitioner worked as a welder, which, based on his description, represents a heavy and strenuous activity.

The Petitioner testified that when he went to work on February 24, 2006 at 2:00 p.m., he was not experiencing any pain in his low back or down his left leg. In other words, the Petitioner was feeling fine at that point.

The Petitioner worked a ten hour shift on February 24, 2006. During that time, he performed several different jobs. The Petitioner described each of those jobs in detail. He indicated that he spent approximately five hours assembling weldments. The Petitioner indicated that when those components are welded together, it creates an object that weighs approximately eighty pounds, which he then has to move and stack. The Petitioner performed that work while standing on a concrete floor for five hours.

The Petitioner then finished welding a metal frame that was situated on a table. The Petitioner indicated that he had to climb onto the table in order to finish that project. He was welding in awkward positions. When he completed that job after two and a half to three hours, he jumped off the table and landed on a concrete floor.

The last job performed by the Petitioner on February 24, 2006 involved cutting seven hundred pound I-Beams. The Petitioner stated that he was moving two of them from a cart. The Petitioner used a crane to maneuver the I-Beams, but he had to push and pull on them. While moving the second I-Beam, he lost control of it, and as he tried to grab it, it jerked him

forward. The Petitioner stated that he did not notice anything unusual about his back at that time, but that this incident occurred near the end of his shift. The Petitioner estimated that he only had forty-five minutes to an hour left in his shift.

The Petitioner testified that when his shift ended, he drove to a Taco Bell, obtained food through the drive-thru window, and went immediately home. While trying to exit his vehicle, he noticed pain and stiffness in his low back and it was difficult for him to ambulate. The Petitioner's wife came to the door and helped him in the house. After eating his food and taking a muscle relaxer from his prior visit to his primary care physician in October, 2005, the Petitioner went to bed. When he awoke the next morning, he was in excruciating pain, and his wife drove him to the Emergency Room at Good Samaritan Hospital.

It is based on these facts that the Petitioner claims that he established that he sustained a compensable accident on February 24, 2006. The Respondent disputes the Petitioner's claim on the basis that he did not specify a particular event that caused his problem. Moreover, his medical records do not initially identify a particular event that caused his pain on February 24, 2006.

However, the Petitioner's medical records do show that he advised all of the doctors that he saw after the Emergency Room, that he performed heavy and strenuous work. Dr. Castillo noted, on February 27, 2006, that the Petitioner's job involves heavy lifting, and lifting in awkward positions (Px. #13). When the Petitioner was first examined by Dr. Thomas Brown, he advised the doctor that his work involves heavy lifting, climbing and crawling activities (Px. #12). What is important to note is that the Petitioner advised both Dr. Castillo and Dr. Brown that his back problems occurred while working on February 24, 2006 (Px. #s 12-13).

In fact, the Petitioner honestly testified that as of this date, he cannot specify, with any accuracy, exactly what caused the symptoms he experienced on February 24, 2006, but he is absolutely positive that his back discomfort started as a result of his work activities on that date. Therefore, the question becomes whether the Petitioner has established a compensable accident where he submits evidence that he went to work on a particular date without symptoms, that he performed heavy and strenuous work for ten hours, that near the end of his shift an unusual event occurred which jerked his body forward, and that within forty-five minutes after his shift ended, he experienced significant pain in his low back. This evidence must be examined in the context of the fact that the Respondent did not submit any proof that the Petitioner had any other source of low back discomfort. There is no proof that the Petitioner arrived at work on February 24, 2006 while experiencing back pain. Further, there is no proof that the Petitioner was involved in any accident on his way home after he ended his shift on February 24, 2006.

As previously noted, the Arbitrator found the Petitioner to be credible. As such, the Arbitrator accepts the Petitioner's testimony as to the work activities he performed on February 24, 2006, and his statements that he was not involved with any other accidents at home.

The fact pattern in the instant case is not dissimilar to the one that existed in the case of *Simburger v. Consolidation Coal Company*, 140 Ill. App. 3d 371 (1986). In that case, the claimant's regular job was as a scoop operator. Those duties included shoveling coal and concrete, and loading bags of rock dust weighing forty to fifty pounds. During the course of working on October 6, 1981, the claimant noticed symptoms in his back. However, the claimant was unable to specify the exact activity which produced his pain. The Appellate Court reversed the Commission, and noted that the "stark fact remains that the events of October 5, 1981

precipitated a breakdown in the physical structure” of the claimant. At p. 376. The Appellate Court went on to indicate that the claimant had established that an accident occurred because he is able to fix a definite time, place and circumstance of the injury. At p. 377.

In the instant case, the Petitioner was also able to fix a definite time, place and circumstance of his injury. The time was during the ten hour shift that he worked on February 24, 2006. The place was the location where he was normally scheduled to work for the Respondent. The circumstance of his injury was the establishment that he performs heavy and strenuous work activities for the Respondent, and that on February 24, 2006, at about forty-five minutes before the end of his shift, something unusual occurred which caused a heavy I-Beam to jerk his body forward. The mere fact that the Petitioner did not experience pain at that time, but did so approximately an hour and a half later, should not defeat his claim. The facts in the instant case are very similar to those in the *Simburger* case. Moreover, as previously noted, the Petitioner advised both Dr. Castillo and Dr. Brown that he was certain that he had sustained an injury at work on February 24, 2006 (Px. #12-13). Although the Petitioner was not able to specify the exact event that precipitated his injury, he was certain that it occurred during that shift.

When discussing the Petitioner’s condition, Dr. Brown prepared a report dated June 12, 2006 (Px. #15). In that report, Dr. Brown indicated that the degenerative changes seen in the Petitioner’s low back were due to the physically demanding job which he had performed for the Respondent for eleven years (Px. #15). Dr. Brown then went on to indicate that, in his opinion, the incident where the I-Beam jerked the Petitioner forward, caused the herniated disc (Px. #15).

What is also important to note is that Dr. Goldberg is of the same opinion. The Respondent referred the Petitioner to Dr. Edward Goldberg for an exam pursuant to §12 of the Act (Rx. #1). Dr. Goldberg wrote that since it appears that the onset of the Petitioner's pain occurred shortly after he left work on February 24, 2006, that if the incident with the I-Beam did, in fact, occur, then the Petitioner's herniation is work related (Rx. #1). Since the Arbitrator has found the Petitioner to be credible, then, clearly, it is accepted that the incident with the I-Beam did, in fact, occur as he described. Dr. Goldberg has found that the jerking from the I-Beam is a competent cause of the Petitioner's herniated disc (Rx. #1).

Furthermore, the situation that exists in the instant case is similar to a repetitive trauma claim. Normally, in a repetitive trauma case, the deterioration of a body part occurs over time, and the Courts have found the date of manifestation to be when a collapse of that bodily area occurs. *Oscar Mayer & Company v. Industrial Commission*, 176 Ill. 3d 607 (1988). In fact, Dr. Brown, in the instant case, specifically indicated that the degenerative changes seen in the Petitioner's low back were due to his strenuous work for the Respondent over the last eleven years (Px. #15).

What clearly occurred in the instant case is that even though the Petitioner was not experiencing any symptoms prior to February 24, 2006, the area of his low back physically collapsed as of that date. The Petitioner described a number of heavy and strenuous physical activities on that date, culminating with an event that was unusual from the standpoint that it caused a jerking sensation in his low back shortly before the end of his shift. Moreover, the Petitioner experienced significant pain and stiffness in his low back less than an hour later, when he arrived at home. Certainly, these facts establish that the Petitioner sustained a collapse of the

physical structure of his low back, which gave way through his usual work tasks on February 24, 2006. As such, this event would also constitute a compensable injury under a repetitive trauma theory, even if that trauma occurred during one ten hour shift. *Butler Manufacturing Company v. Industrial Commission*, 140 Ill. App. 3d 729 (1986).

Therefore, the Arbitrator finds that the Petitioner established that he sustained a compensable accident on February 24, 2006 which arose out of and in the course of his employment with the Respondent under both a specific injury and a repetitive trauma theory. The Petitioner was able to identify the date, place and circumstance of injury, plus it is clear that the physical structure of his low back gave way during the ten hours that he worked on February 24, 2006. Moreover, since the Arbitrator has found the Petitioner to be credible, his version of what occurred on that date is accepted, and, as such, Dr. Goldberg found the last incident, where the I-Beam jerked him forward, to be sufficient to cause the herniated disc. Based on all of these factors, the Arbitrator finds the Petitioner did sustain a compensable accident on February 24, 2006 and is entitled to benefits under the Act.

**F. In support of the Arbitrator's Decision as to whether the Petitioner's present condition of ill-being is causally related to the injury, the Arbitrator makes the following findings:**

In discussing the issue of accident in this case, the question of causation was also involved. As previously noted, the Petitioner testified, without contradiction, that he was not experiencing any symptoms in his low back before he went to work on February 24, 2006. Within an hour of leaving work on that date, the Petitioner had excruciating pain in his low back and down his left leg. The Petitioner obtained constant and ongoing medical care thereafter,

through March 23, 2007. Proof of the state of health of an employee prior to and down to the time of the injury, and the change immediately following the injury and continuing thereafter, is competent as tending to establish that the impaired condition was due to the injury. *Kress Corp. v. Industrial Commission*, 190 Ill. App. 3d 72, 82 (1989). Therefore, based on a comparison of the Petitioner's condition prior to February 24, 2006 with his condition thereafter clearly shows a causal relationship between his injury of that date and his present condition.

In addition, Dr. Thomas Brown, his treating physician, wrote a report indicating that the Petitioner's present condition is causally related to his injury of February 24, 2006 (Px. #15). Dr. Brown opined that the Petitioner's low back had been degenerated as a result of his physically demanding job for the Respondent for the last eleven years (Px. #15). Dr. Brown further indicated that the event on February 24, 2006, where the I-Beam jerked him forward, produced a herniated disc in his low back (Px. #15). Dr. Edward Goldberg, the doctor to whom the Petitioner was sent to by the Respondent, agreed that the I-Beam incident which jerked his body forward is the cause of the herniated disc (Rx. #1).

Based on the evidence presented, the Arbitrator, therefore, finds that the Petitioner established that his present condition of ill-being with regard to his low back is causally related to his accident of February 24, 2006.

**K. In support of the Arbitrator's Decision as to the amount of compensation due for temporary total disability, the Arbitrator finds the following facts:**

The Petitioner claims that he is entitled to temporary total disability benefits for 7 6/7 weeks, covering the period from February 25, 2006 through April 20, 2006 (Arb. Ex. #1).



The Respondent agreed to the period of disability, but disputed its liability (Arb. Ex. #1). Since the Arbitrator has concluded that the Petitioner did sustain a compensable accident, and that his condition is causally related to that injury, then the Respondent is liable to pay temporary total disability benefits to the Petitioner for 7 6/7 weeks. Also, the medical records submitted into evidence by the Petitioner support the fact that the Petitioner was advised to remain off work during that time period. Therefore, the Petitioner is entitled to temporary total disability benefits for 7 6/7 weeks, covering the period from February 25, 2006 through April 20, 2006.

**L. In support of the Arbitrator's Decision as to the nature and extent of the Petitioner's injury, the Arbitrator makes the following findings:**

Following the Petitioner's injury on February 24, 2006, he first sought treatment at the Emergency Room at Good Samaritan Hospital (Px. #18). An MRI Scan performed on that date showed a herniated disc at L5-S1 on the left side, with an extruded fragment, which protruded and extended to the left S1 nerve root (Px. #18).

The Petitioner came under the care of Dr. Thomas Brown, a neurosurgeon. Dr. Brown prescribed, and the Petitioner underwent, four transforaminal epidural steroid injections (Px. #11). At various times during the treatment rendered by Dr. Brown, he did discuss the possibility of performing a microdiscectomy on the Petitioner (Px. #16).

The Petitioner underwent a second MRI Scan on August 12, 2006 at Elmhurst Hospital (Px. #17). Even though that testing appeared to show an improvement in the disc, Dr. Brown still concluded that a small disc fragment was present on the left side at L5-S1

(Px. #16). In fact, even after the second MRI Scan, it was still the recommendation of Dr. Brown that the Petitioner undergo the microdiscectomy (Px #16).

The Petitioner was able to return to his regular job for Respondent. The Petitioner testified that he still has symptoms every day. The Petitioner indicated that these symptoms are primarily in the left buttocks area which extend down to his left knee. According to the Petitioner, he also still experiences soreness on a constant basis in his low back. Almost any activity can increase the symptoms in his low back and left leg. However, the Petitioner related that he has learned to manage the pain and he can deal with it. The Petitioner is not currently undergoing any medical care or taking medication for his back condition.

Based on the nature of the Petitioner's injury, the treatment rendered, and the recommendation for surgery by his treating physicians, the Arbitrator finds that the Petitioner sustained 10% permanent partial disability pursuant to Section 8(d)2 of the Act as a result of the injuries he sustained on February 24, 2006.

**Section 8.1b of the Act states that the relevance and weight of any factors used in addition to the level of impairment as reported by the physicians must be explained in a written order. The Arbitrator has considered all of the following factors:**

- **Siwak's pre-injury job duties. Petitioner is a welder who works at a heavy capacity.**
- **Siwak was 39 years old at the time of the injury and will have to deal with pain and stiffness in his lower back earlier than he otherwise would have experienced through the normal process of aging. He must experience this on a daily basis.**
- **Siwak's future earning capacity may be affected in the future by the following: lost time from work, loss of overtime and potential early retirement.**

**O. In support of the Arbitrator's Decision as to whether the Respondent is liable for the Petitioner's medical bills, the Arbitrator makes the following findings:**

The Petitioner submitted into evidence nine medical bills, showing total charges of \$ 15,827.18 (Px.#s 1-2, 4-10). The Petitioner testified that he submitted these medical bills to his wife's insurance. Therefore, the Petitioner did not use his own group health insurance to cover these bills. As such, the Respondent is not entitled to a credit under Section 8(j) of the Act for the amount of the payments.

The Respondent submitted documents from the Petitioner's wife's Blue Cross/Blue Shield insurance, showing certain reductions made on the bills submitted into evidence. However, the Arbitrator finds that these documents are not helpful in determining the reasonable amount of charges. Illinois now has a medical fee schedule in Section 8.2 of the Act. The schedule has determined the reasonableness of medical charges in all workers' compensation cases. Therefore, whether BC/BSs' pre-existing, independent contractual agreement has no bearing on the bills before this tribunal.

Since the Arbitrator has concluded that the Petitioner did sustain a compensable accident, and that his present condition is casually related to that injury, the Respondent is hereby found to be liable for those bills. The Respondent shall, therefore, pay the appropriate amount to the Petitioner concerning these medical bills submitted into evidence, which are allowed pursuant to the medical fee schedule in Section 8.2 of the Act.