

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EUGENE G. ROBINSON and DEPARTMENT OF VETERANS AFFAIRS,
JERRY L. PETTIS MEMORIAL VETERANS HOSPITAL, Loma Linda, Calif.

*Docket No. 97-452; Submitted on the Record;
Issued January 13, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs properly determined that an overpayment of compensation occurred in the amount of \$5,630.79 for the period January 1, 1992 to March 6, 1994 when appellant received compensation for temporary total disability when he should have received loss of wage-earning capacity compensation based on his actual earnings during that period; (2) whether the Office properly found that appellant was without fault in the creation of the overpayment; (3) whether the Office properly denied waiver of the overpayment; and (4) whether the Office acted properly in withholding \$300.00 from appellant's continuing compensation checks to recover the overpayment.

The Board has given careful consideration to the issues involved, the contentions of appellant on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office dated October 17, 1996 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.

The decision of the Office of Workers' Compensation Programs dated October 17, 1996 is hereby affirmed.

Dated, Washington, D.C.
January 13, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member