

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GARY D. SMITH and DEPARTMENT OF THE AIR FORCE,
VIRGINIA AIR NATIONAL GUARD, Richmond, Va.

*Docket No. 97-742; Submitted on the Record;
Issued January 21, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he is entitled to a schedule award for a permanent impairment of the right leg.

The case has been on appeal previously.¹ In an October 4, 1994 decision, the Board found that appellant had submitted sufficient evidence, in the form of an August 3, 1992 report, from Dr. David Petersen, an orthopedic surgeon, who stated that appellant's fall on September 27, 1991 had caused a traumatic injury to his right trochanteric bursa, which had developed into bursitis. The Board also indicated that the Office of Workers' Compensation Programs should obtain information from the employing establishment on whether appellant had reported injuries to his low back and a tooth on September 30, 1991 and had attributed these conditions to his September 27, 1991 employment injury. The Board remanded the case to the Office for further development.

In an April 28, 1995 letter, the Office informed appellant that it had accepted his claim for right trochanteric bursitis. On August 27, 1995 appellant filed a claim for a schedule award. In a June 12, 1996 decision, the Office denied appellant's claim for a schedule award on the grounds that the evidence of record failed to demonstrate a causal relationship between the injury and the claimed permanent impairment.

The Board finds that appellant has not established that he is entitled to a schedule award for his leg.

¹ Docket No. 93-1453 (issued October 4, 1994).

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulation³ set forth the number of weeks of compensation to be paid for permanent loss, or loss of use, of members or functions of the body listed in the schedule. However, neither the Act nor its regulations specify the manner, in which the percentage loss of a member shall be determined. For consistent results and to ensure equal justice to all claimants, the Board has authorized the use of a single set of tables in evaluating schedule losses, so that there may be uniform standards applicable to all claimants seeking schedule awards. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁴

Appellant submitted several medical reports in support of his claim for a schedule award. He submitted several medical notes indicating that he had chronic right hip pain. In an October 12, 1995 report, Dr. Jeffery Beane, an orthopedic surgeon, indicated that appellant was tender over the right sciatic notch and was significantly tender over the right greater trochanter. Dr. Beane reported that appellant had pain with abduction of the hip and with adduction over the greater trochanter. He stated appellant had no pain with axial loading of the hip and had normal internal and external rotation of the hip. Dr. Beane diagnosed mild osteoarthritis of the hip and trochanteric bursitis of the hip. In a November 3, 1995 report, Dr. Beane stated that appellant had slightly diminished abduction and external rotation of the right hip. He indicated that appellant was not tender over the trochanter and had no pain with internal rotation of the hip. He diagnosed resolved trochanteric bursitis of the right hip and resolving synovitis of the right hip secondary to mild osteoarthritis. In a November 17, 1995 form report, Dr. Beane stated that appellant had osteoarthritis of the pelvic region and thigh. He indicated that this condition did not arise out of appellant's employment.

The only condition accepted by the Office was trochanter bursitis of the right hip. Dr. Beane indicated that this condition had resolved by November 3, 1995. He indicated that appellant had osteoarthritis in the region that was unrelated to appellant's employment. Therefore, appellant has not shown that he has a permanent impairment or loss of use of the right leg due to the effects of his accepted employment injury. As a result, appellant has not established that he is entitled to a schedule award for an employment injury.

² 5 U.S.C. § 8107(c).

³ 20 C.F.R. § 10.304.

⁴ *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).

The decision of the Office of Workers' Compensation Programs, dated June 12, 1996, is hereby affirmed.

Dated, Washington, D.C.
January 21, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member