

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENNIS NIELSON and DEPARTMENT OF THE ARMY,
U.S. ARMY ENGINEERS, Pickstown, S.D.

*Docket No. 97-2045; Submitted on the Record;
Issued March 5, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant has more than a two percent permanent impairment of the left knee.

On September 26, 1996 appellant, then a 49-year-old power plant mechanic, was squatting while welding an intake gate. When he arose, he felt his left knee pop and developed severe pain in the left knee. Appellant stopped working that day and returned to work on October 2, 1996. He lost time from work intermittently thereafter. In a November 19, 1996 note, Dr. Daniel C. Johnson, an orthopedic surgeon, stated that he had performed a partial meniscectomy of the medial meniscus of appellant's left knee. He indicated that appellant had a five percent permanent impairment of the left leg based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.¹ In a March 10, 1997 memorandum, the Office of Workers' Compensation Programs' medical adviser stated that the impairment rating for a partial medial meniscectomy was two percent, not five percent, as set forth in the A.M.A., *Guides*. In a March 26, 1997 decision, the Office issued a schedule award for a two percent permanent impairment of the left leg.

The Board finds that appellant has only a two percent permanent impairment of the left leg.

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulations³ 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.

¹ A.M.A., *Guides* (4th ed., 1993).

² 5 U.S.C. § 8107(c).

³ 20 C.F.R. § 10.304.

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 A.M.A., *Guides* has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁴ Under the A.M.A., *Guides*, a partial meniscectomy of either the medial or lateral meniscus equals a two percent permanent impairment of the leg.⁵ There is no medical evidence of any other factor, such as pain or weakness, which would affect or contribute to the permanent impairment of the left leg. The Office therefore properly determined that appellant had a two percent permanent impairment of the left leg.

The decision of the Office of Workers' Compensation Programs, dated March 26, 1997, is hereby affirmed.

Dated, Washington, D.C.
March 5, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

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

⁵ A.M.A., *Guides*, p. 85, table 64.