

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT C. WATSON and DEPARTMENT OF THE AIR FORCE,
TINKER AIR FORCE BASE, OK

*Docket No. 02-1545; Submitted on the Record;
Issued November 4, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
MICHAEL E. GROOM

The issue is whether appellant has greater than a five percent permanent impairment of use of his right leg.

On July 31, 2001 appellant, then a 38-year-old aircraft mechanic, filed a claim for a traumatic injury to his right knee sustained on July 25, 2001 when he felt a pop while walking up a work stand.

The Office of Workers' Compensation Programs accepted that appellant's July 25, 2001 employment injury resulted in a right knee strain and a need for arthroscopic surgery.

On October 18, 2001 Dr. R.M. Kamath performed a partial medial and lateral meniscectomy and chondroplasty of the medial and patellofemoral articulation.

On January 10, 2002 appellant, who had returned to his regular duties on November 26, 2001, filed a claim for a schedule award.

In a report dated December 10, 2001, Dr. Kamath stated: "Permanent impairment is 10 percent of right lower extremity secondary to partial medial and lateral meniscectomy. This was evaluated as per [American Medical Association, *Guides to the Evaluation of Permanent Impairment*] fifth edition."

On January 29, 2002 an Office medical adviser reviewed Dr. Kamath's December 10, 2001 report and stated that it showed a 10 percent permanent impairment of the right leg due to the partial medial and lateral meniscectomy.

On May 1, 2002 the Office issued appellant a schedule award for a five percent permanent loss of use of his right leg.

The Board finds that appellant has a 10 percent permanent loss of use of the right leg.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

Both the physician that performed the surgery on appellant's right knee and an Office medical adviser concluded that appellant has a 10 percent permanent impairment of his right leg related to his partial lateral and medial meniscectomy. Table 17-33 of the fifth edition of the A.M.A., *Guides* assigns a 10 percent impairment of the lower extremity for a partial medial and lateral meniscectomy, the procedure appellant underwent.³ The case will be remanded to the Office for payment of compensation for an additional five percent permanent impairment of the right leg.

The May 1, 2002 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to the Office for action consistent with this decision of the Board.

Dated, Washington, DC
November 4, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

³ A.M.A., *Guides*, Table 17-33, p. 546 (5th ed.).