

Attorney James P. Johnston began representing claimant in June 1989. He continued this representation through May 1991. During this period of time claimant was paid \$35,321.28 in temporary total disability benefits as a result of the labors of attorney Johnston.

Attorney Johnston, during the period in question, collected \$3,438.15 from the temporary total disability benefits. Under K.S.A. 44-536, attorney Johnston would have been allowed to either a reasonable amount for his services or twenty-five percent (25%) of the amount of compensation recovered and paid, whichever is less. Twenty-five percent (25%) of \$35,321.28 would be \$8,830.32. Subtracting the amount already paid attorney Johnston, would leave an amount due and owing of \$5,392.17. The award of Judge Clark appears to compensate attorney Johnston for twenty-five percent (25%) of the temporary total disability benefits awarded to claimant as a result of the labors of attorney Johnston. Attorney Johnston makes no additional claims for compensation from any of the monies collected by claimant subsequent to the termination of the contract with the claimant.

The provisions of K.S.A. 44-536, in effect at the pertinent time, do allow that an attorney be paid for services when securing compensation for the claimant, with the attorney fees to be at a reasonable amount for such services or twenty-five percent (25%) of the amount of compensation recovered and paid, whichever is less. The Appeals Board finds the claimant was paid \$35,321.28 in temporary total disability benefits as a result of the labors of attorney Johnston. Under K.S.A. 44-536, attorney Johnston would be entitled to twenty-five percent (25%) of said amount.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated September 6, 1994, shall be and is affirmed in full and attorney Johnston is entitled to attorney fees totalling \$5,392.00 at the rate of \$35.19 per week.

IT IS SO ORDERED.

Dated this ____ day of February, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Dennis L. Phelps, Attorney at Law, Wichita, KS
John D. Clark, Administrative Law Judge
George Gomez, Director