

The Administrative Law Judge awarded claimant permanent partial disability benefits based on Dr. Philip R. Mills' permanent functional impairment rating of 10 percent to claimant's left upper extremity including the shoulder. Claimant contends the Administrative Law Judge erred because the greater weight of the credible evidence proves claimant is entitled to permanent partial general disability benefits based on a whole body injury. Claimant alleges he sustained work-related injuries to both shoulders, right wrist, and cervical spine. Claimant urges the Appeals Board to award a 22 percent partial general disability based on Dr. Pedro A. Murati's whole body functional impairment of 28 percent less 6 percent for a preexisting right shoulder injury. Claimant has returned to work for the respondent at his regular job, so work disability is not an issue.

Respondent, on the other hand, contends the Award should be affirmed because the more credible medical evidence proves claimant only sustained a work-related left shoulder injury.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record, considering the briefs, and hearing the arguments of the parties, the Appeals Board finds as follows:

The Appeals Board finds the Award should be affirmed. Further, the Appeals Board finds the Administrative Law Judge's Award sets out findings of fact and conclusions of law that are detailed and supported by the record. It is not necessary to repeat those findings and conclusions in this order. Therefore, the Appeals Board adopts the Administrative Law Judge's findings and conclusions as its own as if specifically set forth herein.

The Administrative Law Judge adopted the 10 percent functional impairment rating to claimant's left upper extremity at the shoulder level as assessed by claimant's treating physician, orthopedic surgeon Harry A. Morris, M.D., and later confirmed by Philip R. Mills, M.D., who evaluated claimant at the request of the respondent. The Appeals Board agrees that the opinions of these two physicians should be given greater weight than the opinion of Pedro A. Murati, M.D., who was employed by the claimant to evaluate claimant's injuries and saw claimant only once. Dr. Murati found claimant had sustained multiple work-related injuries and assessed claimant with a 28 whole body functional impairment that included a rating for a preexisting right shoulder injury.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the October 27, 1998, Award entered by Administrative Law Judge John D. Clark, should be and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of June 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James B. Zongker, Wichita, KS
Frederick L. Haag, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director