

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NUMBER F306709

CHRISTOPHER B. CANTRELL, EMPLOYEE	CLAIMANT
CONAGRA POULTRY COMPANY, EMPLOYER	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT SERVICES, CARRIER/TPA	RESPONDENT

OPINION FILED AUGUST 11, 2004

This opinion is based upon the statements of counsel, stipulations of the parties, and all other evidence before ADMINISTRATIVE LAW JUDGE D. FRANKLIN AREY III, at Little Rock, Pulaski County, Arkansas.

Claimant was represented by Philip M. Wilson, Attorney at Law, Little Rock, Arkansas.

Respondents were represented by Betty J. Demory, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

During a prehearing conference held July 6, 2004, the parties agreed that this matter could be adjudicated upon the stipulations and proof before the Commission. The record reflects that Claimant was employed by Respondent employer on May 24, 2003, when he suffered a compensable injury. The parties specifically stipulated that Claimant's compensable injury resulted in the loss of less than one-half ($\frac{1}{2}$) of the terminal phalange of the third finger on Claimant's left hand.

During a second prehearing conference held August 10, 2004, the parties agreed to further stipulations as specified in a letter from Respondents' counsel of that same date. It is stipulated that Claimant's permanent partial disability compensation

rate is \$244.00; that Respondents have paid Claimant permanent partial disability benefits of \$511.75 plus a \$92.00 penalty; and that Dr. J.D. Allen assessed Claimant's impairment and location of the injury on a dismemberment chart attached to counsel's letter. This latter stipulation confirms the July 6, 2004 stipulation as to the location and extent of Claimant's injury.

Applying Ark. Code Ann. §§ 11-9-501(d), -521(a)(9), and -521(f), as well as Rule 12 of the Commission, Claimant should receive permanent partial disability benefits for six (6) weeks. Section 11-9-521(a)(9) lists "[t]hird finger amputated, twenty-four (24) weeks" as a scheduled injury. Section 11-9-521(f) provides that compensation for permanent partial loss of a member shall be for the proportionate loss of the member. Rule 12 states that loss by amputation of less than one-half ($\frac{1}{2}$) of the terminal phalange equates to one-fourth ($\frac{1}{4}$) of the digit. Thus, Claimant's loss of less than one-half ($\frac{1}{2}$) of the terminal phalange of his third finger on his left hand works out to one-fourth ($\frac{1}{4}$) of twenty-four (24) weeks, or six (6) weeks; section 11-9-501(d) provides that compensation in this instance should be paid at the permanent partial disability rate.

Multiplying the stipulated permanent partial disability compensation rate of \$244.00 by six (6) weeks results in a total of \$1,464.00 in permanent partial disability benefits due to Claimant. However, I find that Respondents are entitled to credit for the \$511.75 of permanent partial disability benefits already paid. Thus, the net due to Claimant is \$952.25.

Respondents have controverted this award, as evidenced by the necessity for Claimant to hire an attorney.

AWARD

1. Claimant is entitled to six (6) weeks of payments at his permanent partial disability compensation rate of \$244.00, for a total award of \$1,464.00. However, Respondents are entitled to credit for \$511.75 in permanent partial disability benefits previously paid to Claimant. Thus, the net due to Claimant is \$952.25.

2. Claimant's attorney is entitled to the maximum statutory attorney's fees on the indemnity benefits awarded herein, one-half ($\frac{1}{2}$) of which would be paid by Claimant and one-half ($\frac{1}{2}$) of which would be paid by Respondents in accordance with Ark Code Ann. § 11-9-715.

IT IS SO ORDERED.

DFA/ml

D. FRANKLIN AREY III,
Administrative Law Judge