

BEFORE THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

FILED

WORKERS' COMPENSATION COMMISSION

STATE OF OKLAHOMA

July 29, 2016

Norma McRae

COMMISSION CLERK

SEAN P MCKENNA
Employee-Claimant

NORMAN POLICE DEPARTMENT
Employer-Respondent

CITY OF NORMAN (OWN RISK #10970)
Insurer

)
)
) Commission File No.
) CM-2015-08264X
)

) Claimant's Social Security
) Number: xxx-xx-9396
)

ORDER AWARDING PERMANENT PARTIAL DISABILITY

Hearing before Administrative Law Judge P BLAIR MCMILLIN on JULY 18, 2016, in Oklahoma City, Oklahoma.

Claimant appeared by counsel, GREG A BARNARD.

Respondent and insurance carrier appeared by counsel, JEANNE SNIDER.

I. STATEMENT OF THE CASE

In summary, Claimant sustained a compensable injury to the right knee as a result of a single event injury on December 16, 2014 arising out of the course and scope of his employment. Claimant received medical treatment from Dr. Steven Schultz, and was released from treatment on December 9, 2015. Claimant now seeks an award of permanent partial disability to the right knee. Claimant also seeks, and Respondent confesses, entitlement to continuing medical maintenance with Dr. Schultz in the form of anti-inflammatory medications as needed. Respondent also admits Claimant sustained a compensable injury to his right knee, but contests the nature and extent of permanent partial disability from said injury. With the issues framed, trial was held on July 18, 2016.

II. FACTS AND STIPULATIONS

The following stipulations were submitted by the parties and accepted as fact:

1. That the Oklahoma Workers' Compensation Commission has jurisdiction in this claim.
2. That the Claimant was an employee of Norman Police Department on December 16, 2014.
3. That Respondent had a policy of workers' compensation coverage with City of Norman (Own Risk #10970) on December 16, 2014.

4. That Claimant sustained compensable injury to the right knee as a result of a single incident accident occurring in the course and scope of employment on December 16, 2014.
5. That Claimant's rate of compensation for this order only is \$571.55 for temporary total and \$323.00 for permanent partial disability.
6. That Respondent has paid wages in lieu of compensation to the Claimant.
7. That the accrual date for permanent partial disability is December 9, 2015.
8. That Claimant is entitled to continuing medical maintenance with Dr. Schultz in the form of anti-inflammatory medications as needed.

III. FINDINGS AND CONCLUSIONS

From review of the record as a whole, including medical reports, documents, and other matters properly before the Commission, and having an opportunity to hear the testimony of the Claimant and observe his demeanor, the following findings of fact and conclusions of law are made in accordance with 85A O.S. §72:

The 32 year old Claimant sustained a compensable injury to the right knee when he jumped over a fence, fell, and felt a pop in his knee trying to apprehend a suspect on December 16, 2014. Claimant received treatment with Dr. Schultz in the form of two surgeries, physical therapy, and medications. Claimant underwent surgery to his right knee on December 19, 2014 in the form of an open reduction internal fixation of a right tibial plateau fracture and diagnostic arthroscopy. Subsequently, Claimant had a MRI of the right knee which revealed a meniscal tear. Claimant underwent surgery to his right knee on August 13, 2015 in the form of a partial lateral meniscectomy, chondroplasty, and synovectomy. Claimant participated in post-operative physical therapy and was released without restrictions on December 9, 2015. Claimant returned to work for Respondent as a police officer.

Claimant complains of a stiffness and a dull, achy pain in his knee that radiates up and down his right leg. Claimant has reduced range of motion of his knee, and difficulty crouching, and kneeling. Claimant testified he is able to perform his regular duties as a police officer, but has pain and stiffness while performing certain functions. Claimant takes his prescription anti-inflammatory medication as needed to help with his symptoms in his knee. Claimant provided the rating report of Dr. Rosson who opined Claimant sustained 41% permanent partial impairment to the right knee. Respondent provided the rating report of Dr. Hensley who opined Claimant sustained 12% permanent partial impairment to right knee.

Based on Claimant's testimony, the treating medical records and the rating medical reports offered, I find Claimant has 18% permanent partial disability to the right knee as a result of his compensable injury and is entitled to compensation as set forth below.

IV. ORDER

1. Claimant sustained a compensable injury to his RIGHT KNEE due to a single incident accident on December 16, 2014 arising out of and in the course and scope of employment.
2. Claimant has sustained 18% permanent partial disability to the RIGHT KNEE for which the Claimant is entitled to compensation for 49.50 weeks at \$323.00 per week, in the total amount of \$15,988.50 (less attorney fee), beginning December 9, 2015, of which 31 weeks and 6 days have accrued and shall be paid by Respondent to Claimant in a lump sum of \$10,289.86. The balance of the award shall be paid at the rate of \$323.00 per week until the total award of \$15,988.50 (less attorney fee) has been paid to the Claimant.
3. The Respondent shall pay all reasonable and necessary medical expenses incurred by the Claimant as a result of the injury through the date of the order.
4. The Claimant's request for continuing medical maintenance for anti-inflammatory prescription medication from Dr. Schultz is GRANTED.
5. The Claimant's attorney is entitled to an attorney fee of 20% of the permanent partial disability award or \$3,197.70 which is due and shall be paid in a lump sum.
6. Pursuant to 40 O.S., §418, the Respondent shall pay to the Oklahoma Tax Commission the Special Occupational Health and Safety tax in the amount of \$119.91, representing three-fourths of one percent of the total workers' compensation losses ordered herein, excluding medical payments and temporary total disability compensation.
7. Pursuant to 85A O.S., §122(B)(i), Respondent, if OWN RISK, shall pay a workers' compensation assessment in the amount of \$319.77 to the Oklahoma Tax Commission, representing two percent (2%) of the permanent disability awarded herein.
8. Pursuant to 85a O.S., §118(A), a final award fee of One Hundred Forty Dollars (\$140.00) is taxed as costs in this matter, and, unless previously paid, shall be paid by the Respondent to the Workers' Compensation Commission.

IT IS SO ORDERED.

DONE this 28th day of JULY, 2016.

BY ORDER OF:

/s/ 
P BLAIR MCMILLIN
ADMINISTRATIVE LAW JUDGE

km/SCox

A copy of the above and foregoing Commission Order was mailed, by regular or certified United States Mail, on this filed stamped date to:

Claimant's Attorney: GREG A BARNARD
225 N PETERS
NORMAN, OK 73069-7232

Respondent's Attorney: JEANNE SNIDER
PO BOX 370
NORMAN, OK 73070-

I do hereby certify that the above and foregoing is a true and correct copy of the original order signed by the Judge herein. Witness by my hand and the official seal of this Commission on this date.



Norma McRae
Commission Clerk
July 29, 2016