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**APPEALS BOARD  
UTAH LABOR COMMISSION**

**CONNIE M. VORE,**

**Petitioner,**

**vs.**

**ANDRUS TRANSPORTATION and  
WORKERS COMPENSATION FUND,**

**Respondents.**

**ORDER ON MOTION  
FOR REVIEW**

**Case No. 03-0359**

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Andrus Transportation and its insurance carrier, Workers Compensation Fund, (referred to jointly as “Andrus” hereafter) request review of Administrative Law Judge Sessions' award of benefits to Connie M. Vore under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this motion for review pursuant to § 63G-4-301 of the Utah Administrative Procedures Act and § 34A-2-801(3) of the Utah Workers Compensation Act.

**BACKGROUND AND ISSUE PRESENTED**

Mrs. Vore claims workers' compensation benefits for left-knee injuries caused by a work-related fall on November 27, 2001. After an evidentiary hearing, the medical aspects of Mrs. Vore's claim were referred to an impartial medical panel. Then, based on the panel's report, Judge Sessions awarded temporary total disability compensation, permanent partial disability compensation, and medical expenses to Mrs. Vore.

In requesting review of Judge Sessions' decision, Andrus points out that the decision misstates the date of Mrs. Vore's injury, resulting in an award of excessive temporary total disability compensation. Andrus also argues that the Appeals Board should accept the opinion of Andrus's medical consultant, rather than the medical panel's opinion, as to the nature and extent of Mrs. Vore's injury.

**FINDINGS OF FACT**

The following facts are material to the issues raised in Andrus's motion for review. Mrs. Vore worked for Andrus as a long-haul truck driver. On November 27, 2001, while climbing down a ladder from the truck cab, she slipped from the ice-covered bottom rung of the ladder and fell to the ground, injuring her left knee.

**ORDER ON MOTION FOR REVIEW  
CONNIE M. VORE  
PAGE 2 OF 3**

Mrs. Vore received medical attention for her left-knee injury and ultimately underwent surgery. After a period of recovery, she was left with a significant permanent impairment. Dr. Andruss, Mrs. Vore's treating physician, opined that Mrs. Vore had no left-knee problems prior to her work accident. However, Dr. Knoebel, Andruss's medical consultant, attributed almost all of Mrs. Vore's impairment to pre-existing left-knee problems. In view of this conflict of medical opinion, the ALJ referred Mrs. Vore's claim to an impartial panel of medical experts. The panel concluded that Mrs. Vore's work accident caused cartilage tear and chondrosis in the left knee which necessitated surgery and resulted in a permanent 20% whole person impairment. The panel attributed none of this impairment to Mrs. Vore's preexisting left-knee problems. Judge Sessions accepted the panel's opinion and awarded permanent partial disability compensation accordingly.

**DISCUSSION AND CONCLUSIONS OF LAW**

As noted above, Andruss points out that Judge Sessions' decision misstated the date of Mrs. Vore's work accident as November 27, 2000, and orders Andruss to begin paying temporary total disability compensation to Ms. Vore on that date. In fact, Mrs. Vore's accident occurred a year later, on November 27, 2001, and her entitlement to temporary total disability compensation does not begin until then. The Appeals Board therefore modifies Mrs. Vore's award of temporary total disability compensation to reflect the correct date of injury.

Andruss also argues that the Appeals Board should reject the opinion of the impartial medical panel and instead accept the opinion of Dr. Knoebel, Andruss's medical consultant. In summary, the medical panel attributed all of Mrs. Vore's permanent impairment to her work injury, while Dr. Knoebel concluded that most of the impairment was due to Mrs. Vore's left-knee problems that existed before her work accident.

In considering this issue, the Appeals Board notes that the medical panel was composed of experienced and respected specialists in orthopedics and neurology with no affiliation to either party. The panelists had access to all Mrs. Vore's pertinent medical records, diagnostic studies, and medical history, as well as the opinions of Mrs. Vore's treating physicians and Andruss's medical consultant. The panelists also personally examined Mrs. Vore. Based on their evaluation of this information, the panel expressed the unequivocal opinion that Mrs. Vore's permanent impairment is the result of her fall from the truck. While the Appeals Board recognizes that Andruss's medical consultant expresses a contrary opinion, the Appeals Board finds the panel's opinion persuasive for the reasons stated above. The Appeals Board therefore finds that Mrs. Vore suffered a permanent 20% whole person impairment as a result of her work-related injury on November 27, 2001.

**ORDER**

The Appeals Board modifies paragraph one of the ALJ's order, found at page four of the decision, as follows:

**ORDER ON MOTION FOR REVIEW**  
**CONNIE M. VORE**  
**PAGE 3 OF 3**

It is therefore ordered that Andrus Transportation and Workers Compensation Fund shall pay Connie M. Vore temporary total disability compensation from November 28, 2001, until December 20, 2002, at the rate of \$369 per week for 55.429 weeks, for a total of \$20,453.30. Andrus Transportation and Workers Compensation Fund are allowed an offset against this amount of \$12,086.57 for temporary disability compensation previously paid to Mrs. Vore.

The Appeals Board affirms the remaining portions of the ALJ's decision and order. It is so ordered.

Dated this 27<sup>th</sup> day of October, 2009.

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Colleen S. Colton, Chair

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Patricia S. Drawe

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Joseph E. Hatch

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Appeals Board of the Utah Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Appeals Board within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.