

COMPENSATION NEWS

MONTHLY REPORT

Applicability of permanent disability rating schedule after January 1, 2005

This is an en banc panel decision

This newsletter does not normally report on panel decisions.

However, this case has some significance.

In this case the parties stipulated to a cumulative trauma injury to the applicant ending November 18, 2002, at a hearing on January 6, 2006, before a Workers' compensation Judge (WCJ).

The single issue to be decided was "Whether the permanent disability rating schedule adopted

by the Administrative Director of the Division of Workers' Compensation as of January 1, 2005 is applicable to the injury in this case or whether the rating schedule in effect prior to January 1, 2005 is applicable.

The WCJ found that the schedule only applies to injuries after January 1, 2005. Defendant filed a petition for reconsideration.

The Workers' compensation Appeals Board (WCAB) issued this en banc decision. They held that under Labor Code section 4660 (d) the revised permanent disability rating schedule applied to injuries arising on or after January 1, 2005.

The prior rating schedule only applies to injuries prior to January 1, 2005 where one of the exceptions described in the third

sentence of section 4660 (d) has been established.

In this case it was not determined whether there was an exception. Therefore, the case was remanded to the WCJ.

The new rating schedule will apply unless the applicant can prove that an exception under Labor Code section 4660 (d) is applicable. Be sure to review this section on every case with a date of injury prior to January 1, 2005, to see if an exception is applicable.

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