

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

BRIAN WATLEY, *Applicant*

vs.

**SACRAMENTO METROPOLITAN FIRE DISTRICT, PSI, and SACRAMENTO
COUNTY FIRE PROTECTION DISTRICT, PSI administered by NCS DIA, *Defendants***

**Adjudication Numbers: ADJ11310844; ADJ11182494
Sacramento District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will grant reconsideration, amend the WCJ's decision as recommended in the report, and otherwise affirm the decision of January 4, 2021.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the decision of January 4, 2021 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the decision of January 4, 2021 is **AFFIRMED, EXCEPT** that it is **AMENDED** as follows:

FINDINGS OF FACT

* * *

3. The injury herein caused 15% permanent disability.

* * *

AWARD

AWARD IS MADE in favor of **BRIAN WATLEY** and against **SACRAMENTO COUNTY FIRE PROTECTION DISTRICT** as follows:

a. Permanent disability indemnity in the total amount of \$8,040.00, payable at the rate of \$160.00 per week for 50.25 weeks, less credit for any sums heretofore paid on account thereof, and less attorney's fees in the amount of \$1,206.00, payable to Eason & Tambornini, whose lien is hereby allowed.

WORKERS' COMPENSATION APPEALS BOARD

/s/ DEIDRA E. LOWE, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

March 26, 2021

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**BRIAN WATLEY
EASON & TAMBORNINI
MULLEN & FILIPPI
LENAHAN SLATER PEARSE & MAJERNIK**

PAG/bea

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*

**REPORT AND RECOMMENDATION ON
PETITION FOR RECONSIDERATION**

**I.
INTRODUCTION**

- | | | |
|----|---|---|
| 1. | Order Issued: | 01/04/21 |
| 2. | Identity of Petitioner: | Defendant |
| 3. | Verification: | The petition is verified |
| 4. | Timeliness: | The petition may be timely |
| 5. | Date Petition for
Reconsideration filed: | 01/24/2021 |
| 6. | Petitioner alleges: | Applicant's level of permanent is
incorrect due to the age adjustment. |

The parties stipulated that applicant sustained an industrial injury to his heart on December 15, 1999 while working with the Sacramento Metropolitan Fire Protection District. The parties were unable to agree upon the level of permanent disability sustained. The Court opined that applicant sustained a whole person impairment of 9%. The undersigned rated the report as follows:

04.01.00.00- 9- [5]1 1-490I-16-19%. Defendant filed its Petition for Reconsideration contesting the final amount of the permanent disability awarded due to the age adjustment.

As noted in the Petition for Reconsideration, applicant was 32 years old at the time of injury. Defendant is, therefore, correct that the permanent disability should be 15%.

Unfortunately, the Petition for Reconsideration was incorrectly electronically filed as a "Petition-Other" rather than a "Petition for Reconsideration" and was, therefore, not discovered by the undersigned in time to amend the Findings and Award.

RECOMMENDATION

Based on the foregoing, it is recommended that the Petition for Reconsideration be granted and Finding #3 be changed to "Applicant sustained 15% permanent disability".

Dated: March 10, 2021

Darcy Kosta
Workers' Compensation Administrative Law Judge