

**Commonwealth Of Kentucky
Court of Appeals**

NO. 2003-CA-001270-WC

GAMCO PRODUCTS

APPELLANT

v.

PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-99-72329

REBECCA GEORGE; HON. LLOYD R.
EDENS, ADMINISTRATIVE LAW JUDGE;
AND WORKERS' COMPENSATION BOARD

APPELLEES

OPINION

REVERSING AND REMANDING

** **

BEFORE: McANULTY AND SCHRODER, JUDGES, HUDDLESTON, SENIOR
JUDGE.¹

SCHRODER, JUDGE. The legal issue raised by the appellant in
this petition has recently been decided by the Supreme Court in
Tanks v. Roark, Ky., 104 S.W.3d 753 (2003). Therefore, we
reverse and remand.

¹ Senior Judge Joseph R. Huddleston sitting as Special Judge by assignment of
the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution
and KRS 21.580.

Rebecca George sustained a work-related injury to her left knee and lower back on March 15, 1999. Dr. Alan Johnson assessed a 6% whole body impairment based on the left knee and another 10% whole body impairment on the lower back, for a combined 16% whole body impairment. The Administrative Law Judge (ALJ) awarded 16%, and the employer appealed contending KRS 342.730(1)(b) clearly establishes that any award of permanent partial disability must be established according to the "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available. In the "Combined Value Chart," a 10% low back impairment combined with a 6% knee impairment equals a 15% total impairment to the whole body and not a 16% by simply adding the two. The Workers' Compensation Board (Board) concluded the doctor, and not the ALJ, had to read the chart, affirming the 16%.

On petition for review before this Court, the sole question is, in assessing the correct functional impairment rating (15% or 16%), can the ALJ apply the doctor's ratings to the "Combined Value Chart," or can only the doctor do so. The appellees have not filed a brief, but since this case was submitted, our Supreme Court decided this issue in Tanks v. Roark, Ky., 104 S.W.3d 753 (2003), holding that "it is apparent that no medical expertise is required to read this conversion

table.” Id. at 757. Therefore, the ALJ in our case should have applied the doctor’s ratings to the “Combined Value Chart.”

For the foregoing reason, the opinion of the Workers’ Compensation Board is reversed and remanded for proceedings consistent with this opinion.

ALL CONCUR.

BRIEF FOR APPELLANT:

NO BRIEF FOR APPELLEES

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