

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of DANIEL J. LOWERY *and* U.S. POSTAL SERVICE,  
POST OFFICE, New Orleans, La.

*Docket No. 97-637; Submitted on the Record;  
Issued October 21, 1998*

---

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant has more than a five percent permanent loss of use of the right upper extremity for which he has received a schedule award.

The Board has duly reviewed the case record and finds that appellant has not established that he is entitled to a greater schedule award.

In the present case, the Office of Workers' Compensation Programs has accepted that appellant, a letter carrier, sustained tendinitis of the right elbow and consequential tendinitis of the left elbow on or about March 25, 1991 in the performance of his federal employment. On May 8, 1995 appellant requested payment of a schedule award. The Office granted appellant a schedule award on June 14, 1996 for five percent permanent loss of use of the right upper extremity.

Section 8107 of the Federal Employees' Compensation Act provides that if there is a permanent impairment involving the loss or loss of use, of a member of function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.<sup>1</sup> Neither the Act nor the regulations specify the manner, in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as a standard for evaluating schedule losses and the Board has concurred in such adoption.<sup>2</sup>

In the present case, appellant submitted medical progress notes dated May 1 and June 26, 1995 from his treating physician, Dr. Essam Elmorshidy, a Board-certified orthopedic surgeon.

---

<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> *James J. Hjort*, 45 ECAB 595 (1994).

In the June 26, 1995 report, Dr. Elmorshidy noted that appellant experienced pain of the right elbow with overwork. He also indicated that on physical examination appellant had loss of extension of the right elbow of 20 to 25 degrees. Dr. Elmorshidy noted that appellant's range of motion of the left elbow was normal, however, appellant experienced slight weakness of grip. In a progress note dated November 6, 1995, Dr. Elmorshidy indicated that appellant had fixed flexion of the right elbow to about 35 degrees, with less tenderness and swelling over the lateral condyle.

In obtaining medical evidence required for a schedule award the evaluation made by the attending physician must include a detailed description of the impairment, including, where applicable, the loss in degree of motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent description of the impairment. This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its resulting restrictions and limitations.<sup>3</sup> On July 27, 1995 an Office medical adviser reviewed Dr. Elmorshidy's reports and noted that these reports did not contain the detailed description of impairment necessary to evaluate appellant's impairment pursuant to the A.M.A., *Guides*. The Office, thereafter, referred appellant to Dr. John R. Montz, a Board-certified orthopedic surgeon, for a second opinion evaluation.

In a report dated August 25, 1995, Dr. Montz addressed the right elbow noting that appellant had a flexion contracture of about 30 degrees and was able to flex to 120 degrees, with full supination and pronation. Dr. Montz stated that appellant had mild tenderness in the lateral epicondyle. Regarding the left elbow, Dr. Montz stated that appellant had full range of motion, with mild tenderness in the lateral epicondyle. Dr. Montz also noted that appellant had normal motor, sensory and reflex reactions in both upper extremities. In a supplemental report dated January 15, 1996, Dr. Montz stated that based upon the A.M.A., *Guides* appellant was able to flex his right elbow to 120 degrees resulting in an 8 percent permanent impairment to the upper extremity. Dr. Montz also stated that appellant lacked the last 30 degrees of extension resulting in a 6 percent impairment to the upper extremity. Dr. Montz concluded that appellant's right upper extremity impairment totaled 14 percent.

On June 6, 1996 an Office medical adviser reviewed the case record and concluded that pursuant to the fourth edition of the A.M.A., *Guides*, Table 32 at page 40, appellant's right elbow flexion of 120 degrees equaled a 2 percent impairment. He also calculated that appellant's right elbow extension of 30 degrees equaled a 3 percent impairment. The medical adviser concluded that appellant had total impairment of the right upper extremity of 5 percent based on loss of range of motion.

The Board has reviewed the medical evidence of record as well as the applicable A.M.A., *Guides* and finds that the Office medical adviser properly utilized the physical findings upon examination provided by Dr. Montz in correlation with figure 32 of the A.M.A., *Guides*. Pursuant to Table 32 of the fourth edition of the A.M.A., *Guides*, elbow flexion of 120 degrees equals a 2 percent impairment, while elbow extension of 30 degrees equals a 3 percent

---

<sup>3</sup> See Joseph Santaniello, 42 ECAB 710 (1991).

impairment. The Office medical adviser properly utilized the physical examination findings from Dr. Montz' reports and he calculated appellant's permanent impairment pursuant to the A.M.A., *Guides*. While Dr. Montz indicated that appellant had a 14 percent permanent impairment of the right upper extremity, he did not properly correlate his impairment calculations examination findings with figure 32 of the A.M.A., *Guides*, therefore, his computation was incorrect. Finally, while the medical evidence of record indicates that appellant has a slight tenderness of the lateral epicondyle and slight loss of grip, no physician of record has indicated that such findings have caused permanent impairment. Dr. Montz reported that appellant had no motor, sensory, or reflex impairment and there is currently no evidence of record to support a greater schedule award.

The decision of the Office of Workers' Compensation Programs dated June 14, 1996 is hereby affirmed.

Dated, Washington, D.C.  
October 21, 1998

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member