

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PATRICIA NICHOLS and U.S. POSTAL SERVICE, COLLIER  
POST OFFICE, Collier, Tenn.

*Docket No. 96-2359; Submitted on the Record;  
Issued September 10, 1998*

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DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant is entitled to a schedule award for a permanent partial impairment of her back.

The Board has duly reviewed the case record in this appeal and finds that appellant is not entitled to a schedule award for a permanent partial impairment of her back.

On June 23, 1995 appellant, then a "PTR" clerk, filed a traumatic injury claim (Form CA-1) alleging that on June 13, 1995 she sustained a lumbar sprain while unloading an "APC" of approximately 30 to 40 mail sacks. Appellant stopped work on June 19, 1995 and returned to work on June 26, 1995.<sup>1</sup>

On February 14, 1996 appellant filed a claim for a schedule award (Form CA-7) for her back.

By decision dated April 22, 1996, the Office of Workers' Compensation Programs found the evidence of record insufficient to establish that appellant was entitled to a schedule award for a permanent partial impairment of the back. In an accompanying memorandum, the Office denied appellant's claim for a schedule award on the grounds that the back is excluded from the schedule award provisions.

The Federal Employees' Compensation Act provides that compensation shall be paid for an employment injury when it results in total or partial disability for work.<sup>2</sup> The Act also

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<sup>1</sup> The record reveals that in a notice of removal dated December 19, 1995, the employing establishment advised appellant that she was being removed from her employment on the grounds that she was absent without leave, that she failed to meet the attendance requirements of her position and exhibited conduct unbecoming a postal employee due to her arrest and incarceration for various criminal offenses.

<sup>2</sup> 5 U.S.C. §§ 8105-8106.

provides for a payment of a schedule award for permanent impairment of specified members and functions of the body.<sup>3</sup> However, as the Board has consistently held, there is no authority for paying a schedule award for an impairment of a portion of the body not enumerated in the schedule.<sup>4</sup> For this reason, a schedule award may not be made for an impairment of the back.<sup>5</sup> Appellant would be entitled to compensation only if it were established that her back impairment resulted in disability for work during the period of her absence from work.

The April 22, 1996 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
September 10, 1998

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>3</sup> 5 U.S.C. § 8107.

<sup>4</sup> *William Edwin Muir*, 27 ECAB 579 (1976) (this principle applies equally to body members that are not enumerated in the schedule provision as it read before the 1974 amendment and to organs that are not enumerated in the regulations promulgated pursuant to the 1974 amendment); *see also Ted W. Dieterich*, 40 ECAB 963 (1989); *Thomas E. Stubbs*, 40 ECAB 647 (1989); *Thomas E. Montgomery*, 28 ECAB 294 (1977).

<sup>5</sup> *Elizabeth C. Durner*, 24 ECAB 18 (1972); *George J. Lecastre*, 21 ECAB 123 (1969); *Anthony P. Bellino*, 20 ECAB 180 (1969); *Daniel P. Hebding*, 19 ECAB 638 (1968); *Francisco R. LaTorre*, 18 ECAB 668 (1967); *Walter L. Streeter*, 17 ECAB 632 (1966); *Wilbur S. Ledden*, 16 ECAB 650 (1965); *Jerry R. Schmitt*, 16 ECAB 367 (1965); *Luis Manalo*, 15 ECAB 400 (1964); *John W. Maddox*, 15 ECAB 329 (1964); *George G. Sager*, 14 ECAB 181 (1962); *Harold Shoopman*, 14 ECAB 173 (1962); 5 U.S.C. § 8101(19).