

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID R. CHARRETTE and U.S. POSTAL SERVICE,
POST OFFICE, Portland, Maine

*Docket No. 97-390; Submitted on the Record;
Issued September 8, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant is entitled to a greater than six percent permanent impairment of his right arm for which he received a schedule award.

The Board has duly reviewed the case on appeal and finds that appellant is not entitled to an eight percent permanent impairment of his right arm.

Appellant, then a 33-year-old distribution clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) on November 25, 1992 for carpal tunnel syndrome and tendinitis. The Office of Workers' Compensation Programs accepted appellant's claim for bilateral tendinitis and authorized compensation on May 21, 1993. On May 2, 1995 the Office accepted appellant's claim for the additional condition of left shoulder tendinitis. On November 2 and 17, 1994 appellant filed recurrence claims which the Office accepted on April 18 and May 2, 1995. Appellant filed a claim for a schedule award on July 8, 1996.¹

Under section 8107 of the Federal Employees' Compensation Act² and section 10.304 of the implementing federal regulations,³ schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants the Office adopted the American Medical

¹ On appeal appellant argues that the Office has issued an incomplete award as it has failed to consider the impairment in his left arm. In support of his argument, appellant noted that the Office accepted his condition for bilateral tendinitis and left shoulder tendinitis. Because the Office has not issued a final decision on whether appellant is entitled to a schedule award for permanent impairment for his left arm, the Board has no jurisdiction to decide that issue on the present appeal. 20 C.F.R. § 501.2(c).

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.304.

Association, *Guides to the Evaluation of Permanent Impairment*⁴ as a standard for determining the percentage of impairment, and the Board has concurred in such adoption.⁵

In this case, appellant's attending physician, Dr. Kathryn D. Seasholtz, completed a report on June 1, 1996 finding that appellant had a five percent permanent impairment of his left arm and a four percent permanent impairment of his right arm. Dr. Seasholtz based her opinion on the fact that appellant was "unable to comfortably extend the wrists beyond about 50 degrees," no limitation of movement in the right shoulder due to pain,⁶ elbow flexion of 130 degrees bilaterally. She then opined that based on the combined values charts that appellant has a total five percent permanent impairment. Dr. Seasholtz did not correlate her findings with the A.M.A., *Guides*. Because Dr. Seasholtz did not provide details to show how she arrived at a five percent permanent impairment in accordance with the appropriate section of the A.M.A., *Guides*, her report was therefore not probative as to the percent of permanent impairment and the Office correctly referred her report to an Office medical adviser for calculation of appellant's permanent impairment using the loss of motion figures and specific functional impairments provided in her report.⁷

The Office medical adviser reviewed the medical evidence of record and concluded, based upon Dr. Seasholtz's June 1, 1996 report, that appellant had a six percent impairment of the right upper extremity. The Office medical adviser used figure 26, page 36 to find a four percent impairment due to abnormal wrist motion, zero impairment for no abnormality of the left shoulder motion and using figure 38, page 43, determined there was a one percent impairment due to abnormal motion for the right elbow. The Office medical adviser then utilized the combined values chart to find a five percent impairment of the right upper extremity due to abnormal motion. Utilizing Table 15, page 54 and Table 11, grade 2, page 48, the Office medical adviser concluded that appellant had a one percent impairment due to pain. The Office medical adviser then utilized the combined values chart to conclude that appellant had a total impairment of six percent for the right upper extremity.⁸

The Office medical adviser compared Dr. Seasholtz's clinical findings to the appropriate tables and pages in the A.M.A., *Guides*, and properly calculated a six percent permanent

⁴ A.M.A., *Guides* (4th ed. 1993)

⁵ *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

⁶ Dr. Seasholtz noted that appellant had 160 degrees of flexion at the left shoulder and 160 degrees of abduction due to pain.

⁷ *James E. Jenkins*, 39 ECAB 860 (1988).

⁸ Using the same tables and method, the Office medical adviser concluded that appellant had an eight percent permanent impairment of the left upper extremity.

impairment of the right upper extremity.⁹ Accordingly the Office medical adviser's opinion that appellant has a six percent permanent impairment of his right upper extremity is entitled to the weight of the medical evidence and establishes that appellant has no more than a six percent impairment of the right upper extremity.

The September 6, 1996 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
September 8, 1998

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

⁹ See *Paul R. Evans, Jr.*, 44 ECAB 646, 651 (1993). The Office may rely on the advice of its medical adviser or consultant when he or she has properly utilized the A.M.A., *Guides*.