

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUAN C. ESTRADA and DEPARTMENT OF JUSTICE,
BORDER PATROL, BROWN FIELD STATION, San Diego, CA

*Docket No. 98-483; Submitted on the Record;
Issued August 20, 1999*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has more than 10 percent permanent impairment of his left upper extremity for which he received a schedule award.

The Board has duly reviewed the case on appeal and finds that appellant has no more than 10 percent permanent impairment of his left upper extremity for which he received a schedule award.

On August 15, 1996 appellant filed a claim alleging on August 15, 1996 he injured his left shoulder in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for left shoulder strain and arthroscopies on August 22, 1996 and January 16, 1997. Appellant requested a schedule award on June 12, 1997 and by decision dated October 1, 1997, the Office granted appellant a schedule award for 10 percent permanent impairment of his left upper extremity.

Section 8107 of the Federal Employees' Compensation Act¹ provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function. 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, *Guide to the Evaluation of Permanent Impairment*² as a standard for evaluating schedule losses and the Board has concurred in such adoption.³

¹ 5 U.S.C. §§ 8101-8193, 8107.

² A.M.A., *Guides*, fourth edition (1993).

³ A. George Lampo, 45 ECAB 441, 443 (1994).

In a report dated May 21, 1997, appellant's attending physician, Dr. Thomas W. Harris, an orthopedic surgeon, noted that appellant experienced cramps in his shoulder, that it was uncomfortable for him to sleep on his shoulder, that he experienced pain raising the arm to shoulder level and that his left arm was easily fatigued. Dr. Harris performed a physical examination and determined that appellant had no atrophy, but had tenderness when performing active range of motion as well as palpation over the biceps tendon and anterior superior joint capsule. He provided appellant's range of motion figures and opined that appellant had reached maximum medical improvement. Dr. Harris concluded that appellant had 10 percent impairment of his left upper extremity.

The Office medical adviser applied the A.M.A., *Guides* to the findings in Dr. Harris' report. He properly noted that 30 degrees of extension was 1 percent impairment and that 180 degrees of flexion was not a ratable impairment.⁴ The Office medical adviser found that 60 degrees of internal rotation was 2 percent impairment and that 80 degrees of external rotation was not a ratable impairment.⁵ He properly found that abduction of 180 degrees was not a ratable impairment and that adduction of 20 degrees was 1 percent impairment.⁶ The Office medical adviser then calculated appellant's impairment due to pain in accordance with that A.M.A., *Guides*, noting that appellant had pain which interfered with activity,⁷ a 60 percent impairment and that the nerves involved were the axillary and suprascapular each with a maximum impairment rating due to pain of 5 percent.⁸ He then multiplied the value of each nerve by the degree of impairment to determine that appellant had 6 percent impairment due to pain. The Office medical adviser combined the 4 percent loss of range of motion impairment with 6 percent impairment due to pain and concluded that appellant had 10 percent permanent impairment of his left upper extremity.

As the Office medical adviser properly applied the A.M.A., *Guides* to Dr. Harris' report and as there is no medical evidence in the record supporting more than 10 percent permanent impairment of appellant's left upper extremity, the Board finds that appellant has no more than 10 percent permanent impairment of his left upper extremity.

⁴ A.M.A., *Guides*, 43, Figure 38.

⁵ A.M.A., *Guides*, 45, Figure 44.

⁶ A.M.A., *Guides*, 44, Figure 41.

⁷ A.M.A., *Guides*, 48, Table 11.

⁸ A.M.A., *Guides*, 54, Table 15.

The October 1, 1997 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
August 20, 1999

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member