

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LARRY A. RONNIE and U.S. POSTAL SERVICE,
POST OFFICE, Minot, ND

*Docket No. 99-26; Submitted on the Record;
Issued March 23, 2000*

DECISION and ORDER

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

The issue is whether appellant has more than a 12 percent permanent impairment of his left leg for which he received a schedule award.

The Board has duly reviewed the case on appeal and finds that appellant has no more than a 12 percent permanent impairment of his left leg for which he received a schedule award.

Appellant filed a claim on September 9, 1997 for injuries to his left calf and knee. The Office of Workers' Compensation Programs accepted appellant's claim for left knee strain and left knee arthroscopy on January 28, 1998. Appellant then filed a claim for a schedule award on March 11, 1998, and, by decision dated July 9, 1998, the Office granted appellant a schedule award for a 12 percent permanent impairment of his left leg.

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.304 of the implementing federal regulations,² 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 Association, *Guides to the Evaluation of Permanent Impairment* as a standard for determining the percentage of impairment and the Board has concurred in such adoption.³

In this case, Dr. Thomas W. Kneifel, appellant's treating physician Board-certified in orthopedic surgery, completed a report on April 1, 1998 finding that appellant had a 20 percent permanent impairment of his left lower extremity based on cartilage interval. He also noted that

¹ 5 U.S.C. §§ 8101-8193.

² 20 C.F.R. § 10.304.

³ *James A. England*, 47 ECAB 115 (1995).

appellant had 100 degrees of flexion and 3 degrees of extension. Dr. Kneifel further noted that appellant's date of maximum medical improvement was May 1998.

The Office medical adviser reviewed the medical evidence of record and concluded that appellant had a 12 percent permanent impairment of his left lower extremity. Dr. Kneifel based his determination on appellant's knee flexion of 100 degrees which he stated was equal to a 10 percent permanent impairment⁴ and a meniscectomy which was equal to a 2 percent permanent impairment.⁵

Inasmuch as Dr. Kneifel did not include a cartilage interval finding in his April 1, 1998 report to support his impairment rating recommendation, his report is of limited probative value. The Office medical adviser, however, properly reviewed a statement of accepted facts as well as the medical evidence of record,⁶ and supported his conclusion that appellant had sustained a 12 percent permanent impairment of his left leg. Therefore, the Office properly relied upon the medical report of the Office medical adviser in reaching a finding that appellant had no more than a 12 percent permanent impairment of his left lower extremity.

⁴ A.M.A., *Guides*, at 78, Table 41.

⁵ *Id.* at 85, Table 64.

⁶ See *James E. Jenkins*, 39 ECAB 860 (1988). Further, Chapters 1 and 2 of the A.M.A., *Guides* note that they were prepared to allow one physician to use the raw clinical data of another physician to arrive at a uniform standardized evaluation.

The July 9, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
March 23, 2000

George E. Rivers
Member

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member