United States Department of Labor
Employees' Compensation Appeals Board

L.Q., Appellant	)	
and	)	**Docket No. 09-985**
	)	**Issued: October 23, 2009**
DEPARTMENT OF THE ARMY, CORPUS CHRISTI ARMY DEPOT, Corpus Christi, TX, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 3, 2009 appellant filed a timely appeal from a February 19, 2009 decision of the Office of Workers' Compensation Programs adjudicating his claim for a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he has any permanent impairment causally related to his accepted bilateral carpal tunnel syndrome.

FACTUAL HISTORY

This is the third appeal in this case.[1] By decision dated June 6, 2006, the Board remanded the case to the Office for review of all the issues. By decision dated September 18, 2007, the Board affirmed a March 9, 2007 Office decision denying appellant's claim for a schedule award and a March 28, 2007 decision denying his request for reconsideration. The facts and the law of the case set forth in the Board's prior decisions are incorporated herein by reference.

In a January 8, 2008 letter, Dr. Steven E. Nowotny, a Board-certified specialist in family medicine, stated that appellant had bilateral carpal tunnel syndrome which had been surgically treated two years prior by Dr. Edwin Melendez without apparent success. He noted that a November 30, 2007 nerve conduction study confirmed bilateral carpal tunnel syndrome.[2]

On November 25, 2008 appellant, through counsel, disagreed with a November 6, 2008 Office decision.[3] He argued that the medical evidence of record established that appellant sustained permanent impairment causally related to his accepted bilateral carpal tunnel syndrome.

By letter dated January 12, 2009, the Office noted that the last merit decision issued in appellant's case was the Board's September 18, 2007 decision. Although his one-year period to request reconsideration had expired, the Office advised that it would review his November 25, 2008 request for reconsideration.

By decision dated February 19, 2009, the Office denied appellant's claim for a schedule award finding that the medical evidence did not establish that he sustained permanent impairment causally related to his accepted bilateral carpal tunnel syndrome.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act[4] and its implementing regulations[5] set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be

---

[1] *See* Docket No. 07-1262 (issued September 18, 2007); Docket No. 06-402 (issued June 6, 2006). Appellant developed bilateral carpal tunnel syndrome as a result of his federal employment. On February 7, 2007 he submitted a claim for a schedule award.

[2] The November 30, 2007 nerve conduction study report indicates an impression of bilateral carpal tunnel syndrome by clinical history and "probably electrophysiologically."

[3] The November 6, 2008 letter to appellant from the Office was not a decision. It was an informational response to his October 22, 2008 letter to the Secretary of Labor regarding his claim.

[4] 5 U.S.C. § 8107.

[5] 20 C.F.R. § 10.404.

determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*, fifth edition) has been adopted by the Office as the appropriate standard for evaluating schedule losses.[6]

ANALYSIS

On November 25, 2008 appellant requested reconsideration of the denial of his claim for a schedule award. In a January 8, 2008 letter, Dr. Nowotny stated that appellant had bilateral carpal tunnel syndrome which had been treated surgically by Dr. Melendez two years prior without apparent success. The Office accepted that appellant sustained bilateral carpal tunnel syndrome in the performance of duty. The issue is whether he submitted medical evidence establishing that he sustained any impairment causally related to his accepted condition. Dr. Nowotny provided no findings on physical examination or rationalized explanation as to whether appellant sustained any impairment causally related to his accepted bilateral carpal tunnel syndrome. Therefore, the Office properly denied modification of its denial of his schedule award claim.

On appeal appellant asserts that an examination with Dr. Frank Luckay did not take place. As noted in the Board's September 18, 2007 decision, the record reflects that Dr. Luckay examined appellant on January 30, 2007 and found no impairment. Therefore, this argument is without merit. Appellant argues that his state medical association does not include Dr. Luckay in its list of physicians, but the Texas Medical Board and the Texas Medical Association list Dr. Luckay as a licensed orthopedic surgeon in Texas. Further, the American Board of Medical Specialties lists Dr. Luckay as a Board-certified orthopedic surgeon. Appellant indicates that his civil rights have been violated and fraud committed. However, he does not provide evidence to support his allegations.

CONCLUSION

The Board finds that appellant failed to establish that he sustained any permanent impairment causally related to his accepted bilateral carpal tunnel syndrome.

[6] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 19, 2009 is affirmed.

Issued: October 23, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board