

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BILLIE SMITH and U.S. POSTAL SERVICE,
ST. LOUIS BULK MAIL CENTER, Hazelwood, Mo.

*Docket No. 96-1468; Submitted on the Record;
Issued April 8, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has more than a 12 percent permanent impairment of the right thumb.

On November 4, 1994 appellant, then a 41-year-old mailhandler, had his right thumb caught in a fan that was missing part of its guard. In a November 4, 1994 duty status report, Dr. Richard B. Chusak, a Board-certified plastic surgeon, indicated that appellant sustained lacerations to the thumb with involvement of the extensor tendon. He underwent surgery that day. The Office of Workers' Compensation Programs accepted appellant's claim for multiple lacerations to the right thumb and extensor tendon. In a March 25, 1996 decision, the Office issued a schedule award for a 12 percent permanent impairment of the right thumb.

The Board finds that appellant has no more than a 12 percent permanent impairment of the right thumb.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations² set forth the number of weeks of compensation to be paid for permanent loss, or loss of use, of members or functions of the body listed in the schedule. However, neither the Act nor its regulations specify the manner in which the percentage loss of a member shall be determined. For consistent results and to ensure equal justice to all claimants, the Board has authorized the use of a single set of tables in evaluating schedule losses, so that there may be uniform standards applicable to all claimants seeking schedule awards. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been

¹ 5 U.S.C. § 8107(c).

² 20 C.F.R. § 10.304.

adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.³

The Office based its decision on the February 7, 1996 report of Dr. Donald M. McPhaul, a Board-certified physiatrist, who indicated that appellant's range of motion in the right thumb, interphalangeal joint, was 30 degrees extension, 11 degrees flexion and his range of motion in the metacarpal phlangeal joint was 50 degrees flexion and 0 degrees extension. He reported that appellant was able to fully adduct his thumb eight centimeters and had full thumb opposition of eight centimeters. He noted appellant had 76 degrees of radial abduction of the thumb. He indicated appellant had chronic pain in the thumb but no objective sensory loss nor any objective weakness in the right hand and thumb. Dr. McPhaul indicated that, under the A.M.A., *Guides*,⁴ appellant had a 6 percent permanent impairment for the 11 degrees of flexion in the interphalangeal joint⁵ and 1 percent permanent impairment for 50 degrees of flexion in the metacarpal phlangeal joint.⁶ He concluded that appellant had no other permanent impairment due to loss of motion in the thumb.⁷ He indicated that appellant had a class 2 or 25 percent sensory impairment of the thumb due to chronic pain.⁸ He stated that the pain was in the distribution of the medial nerve, radial side of the thumb, for which total sensory impairment was a 20 percent impairment of the thumb.⁹ He therefore calculated that appellant had a 5 percent permanent impairment (25 percent times 20 percent) of the right thumb due to pain. Dr. McPhaul concluded that appellant had a 12 percent permanent impairment of the right thumb. Dr. McPhaul's calculations were in accordance with the A.M.A., *Guides* and properly show that appellant had no more than a 12 percent permanent impairment of the right thumb.

³ *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).

⁴ American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993).

⁵ *Id.*, p. 26, figure 10.

⁶ *Id.*, p. 27, figure 13.

⁷ *Id.*, pp. 26-29.

⁸ *Id.*, p 151, table 20.

⁹ Under the fourth edition of the A.M.A., *Guides*, a total sensory loss in the median nerve, radial side of the thumb, equals a seven percent permanent impairment of the arm. A.M.A., *Guides*, p. 54, table 15. The fourth edition, however, do not give the equivalent permanent impairment to the digit. Under the same table in the revised third edition of the A.M.A., *Guides*, it is shown that a total sensory loss of the median nerve, radial side of the thumb, equal a 20 percent permanent impairment of the thumb. A.M.A., *Guides*, p. 46, table 14 (3d ed. rev., 1990) Under the circumstances in this case, it was proper for Dr. McPhaul to refer to the revised third edition of the A.M.A., *Guides* to make this calculation.

The decision of the Office of Workers' Compensation Programs, dated March 25, 1996, is hereby affirmed.

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

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member