

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BENJAMIN JOWERS and U.S. POSTAL SERVICE,  
GENERAL POST OFFICE ANNEX, Philadelphia, Pa.

*Docket No. 96-2689; Submitted on the Record;  
Issued March 10, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
WILLIE T.C. THOMAS

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

On September 12, 1994 appellant, then a 41-year-old mailhandler, was lifting heavy mail sacks and moving large containers when he developed pain in his back. On October 21, 1994 appellant underwent surgery for a herniated L2-3 disc and lumbar radiculitis and radiculopathy. Dr. Richard B. Kanoff, an osteopath, performed a lumbar hemilaminectomy on the right with a microdiscectomy of the L2-3 disc. The Office of Workers' Compensation Programs accepted appellant's claim for a herniated L2-3 disc. Appellant received buy back of leave for the period September 13 through 23, 1994. The Office paid temporary total disability compensation for the period September 26, 1994 through January 15, 1995. Appellant returned to limited-duty work on January 15, 1995.

In an October 6, 1995 report, Dr. Kanoff indicated that appellant continued to work full time but had some difficulty due to low back pain, occasional ache in his thigh and numbness of the thigh. He commented that appellant had reached maximum medical improvement and concluded that the numbness of appellant's thigh was likely to be permanent.

In an October 26, 1995 memorandum, an Office medical adviser indicated that appellant had a two percent permanent impairment of the right leg due to numbness, a sensory deficit along the anterior right thigh which involved the femoral anterior cutaneous nerve.

In a November 20, 1995 decision, the Office issued a schedule award for a two percent permanent impairment of the right leg. In merit decisions dated April 26 and July 30, 1996, the Office denied appellant's requests for modification of the November 20, 1995 decision.

The Board finds that appellant has sustained no more than a two percent permanent impairment of the right leg.

The schedule award provision of the Federal Employees' Compensation Act<sup>1</sup> and its implementing regulation<sup>2</sup> 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 adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.<sup>3</sup>

Dr. Kanoff identified only appellant's numbness in the right thigh as a permanent effect of the September 12, 1994 employment injury. The Office medical adviser concluded from Dr. Kanoff's report that appellant had a sensory deficit of the femoral anterior cutaneous nerve. He noted that under the A.M.A., *Guides*<sup>4</sup> a sensory deficit of the femoral cutaneous nerve equals a two percent permanent impairment of the leg.<sup>5</sup> There is no evidence of record showing appellant has a greater permanent impairment of the leg.

The decisions of the Office of Workers' Compensation Programs, dated July 30, April 26, 1996 and November 20, 1995, are hereby affirmed.

Dated, Washington, D.C.  
March 10, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member

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<sup>1</sup> 5 U.S.C. § 8107(c).

<sup>2</sup> 20 C.F.R. § 10.304.

<sup>3</sup> *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).

<sup>4</sup> A.M.A., *Guides* (4th ed. 1993).

<sup>5</sup> *Id.*, p. 89, Table 68.