

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KENNIETH J. PRICE and DEPARTMENT OF THE ARMY,  
CORPS OF ENGINEERS, Memphis, Tenn.

*Docket No. 97-1727; Submitted on the Record;  
Issued May 14, 1999*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,  
A. PETER KANJORSKI:

The issue is whether appellant has more than an 11 percent permanent impairment of his left hand for which he received a schedule award.

The Board has duly reviewed the case on appeal and finds that it is not in posture for a decision.

Section 8107 of the Federal Employees' Compensation Act<sup>1</sup> sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The Office of Workers' Compensation Programs has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. 1993) as an appropriate standard for evaluating schedule losses, and the Board has concurred in such adoption.<sup>2</sup>

On September 7, 1995 appellant filed a claim alleging that on September 6, 1995 he injured his left index and middle fingers in the performance of duty. Appellant's condition was diagnosed as a laceration of the extensor tendon in both the left index and middle fingers. This injury required surgical repair, which was performed on September 8, 1995 by William L. Bourland, M.D., a Board-certified orthopedic surgeon. The Office subsequently accepted appellant's claim, and on March 19, 1996, appellant received a schedule award for an 11 percent loss of use of his left hand.

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> *James J. Hjort*, 45 ECAB 595 (1994).

On May 28, 1996 Dr. Bourland performed additional surgery on appellant's left index finger to correct a mallet finger deformity. Appellant subsequently requested an additional schedule award based on a November 13, 1996 report from Dr. Bourland. He indicated that while appellant's range of motion with respect to his left index and middle fingers had improved such that his current impairment rating for his left hand was less than the previously awarded 11 percent impairment, appellant demonstrated an additional 10 percent impairment of the left upper extremity secondary to loss of grip strength. Dr. Bourland measured appellant's grip strength in his right and left hands as 140 pounds (63.6 kilograms) and 120 pounds (54.5 kilograms), respectively.

The Office subsequently referred appellant's claim to its medical adviser. In a report dated December 2, 1996, the Office medical adviser determined that appellant had an eight percent impairment of his left hand due to loss of motion. Additionally, contrary to Dr. Bourland's findings, the Office medical adviser found no impairment of the left upper extremity due to loss of grip strength. Based on the findings of its medical adviser, the Office denied appellant's claim for an additional schedule award on March 24, 1997.

In the instant case, while the Office medical adviser properly determined that appellant had an eight percent impairment of his left hand due to loss of motion,<sup>3</sup> he improperly calculated appellant's loss of grip strength. Under the A.M.A., *Guides*, loss of grip strength is determined by a formula of abnormal strength subtracted from normal strength and then divided by normal strength to yield a percentage of strength loss index. The grip strength of the affected hand is compared with the grip strength of the opposite extremity, which is assumed to be normal. If both extremities are affected, the strength measurements are compared to the average normal strengths listed in Tables 31 to 33.<sup>4</sup> In calculating appellant's grip strength, the Office medical adviser disregarded the measured value of appellant's right hand as provided by Dr. Bourland, and instead relied on the average grip strength for a person of appellant's age as reported in Table 32.<sup>5</sup> Inasmuch as there is no indication from the record that appellant's right hand was affected or otherwise impaired, the Office medical adviser should have calculated appellant's grip strength based on the measured value of appellant's right hand as reported by Dr. Bourland

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<sup>3</sup> In his November 13, 1996 report, Dr. Bourland provided measurements of extension and flexion for appellant's left index finger as follows: MP joint 0 to 90 degrees; PIP joint 0 to 90 degrees; and DIP joint 20 to 45 degrees. With respect to appellant's left middle finger, Dr. Bourland provided the following measurements: MP joint 0 to 90 degrees; PIP joint 0 to 95 degrees; and DIP joint 0 to 60 degrees. Based on these measurements, the Office medical adviser properly calculated a 26 percent impairment of appellant's index finger and a 13 percent impairment of the middle finger utilizing figures 19, 21 and 23 in Chapter 3 of the A.M.A., *Guides* as well as the Combined Values Chart at page 322. Utilizing Table 1 of the A.M.A., *Guides* at page 18, the Office medical adviser properly determined that appellant's impairments of the index and middle fingers respectively corresponded to a 5 percent and 3 percent impairment of the hand, which represented an 8 percent total impairment of the left hand in accordance with page 35 of the A.M.A., *Guides*.

<sup>4</sup> A.M.A., *Guides*, pp. 64-65 (4th ed. 1993).

<sup>5</sup> Whereas Dr. Bourland measured appellant's right hand grip strength as 140 pounds. (63.6 kg.), the Office medical adviser applied the Table 32 average value of 49.2 kg. Since appellant's measured grip strength in his injured left hand, 120 pounds. (54.5 kg.) exceeded the Table 32 average value for his right hand (49.2 kg.), the Office medical adviser's calculation resulted in a negative strength loss index. In essence, appellant's injured left hand is ostensibly stronger than his normal right hand.

instead of utilizing the average value reported in Table 32. Had the Office medical adviser properly applied both values reported by Dr. Bourland, it appears that appellant may be entitled to an additional schedule award for an impairment to his left upper extremity. Consequently, the case is remanded to the Office for a proper determination of appellant's grip strength pursuant to the A.M.A., *Guides* and the issuance of an appropriate merit decision.

The decision of the Office of Workers' Compensation Programs dated March 24, 1997 is hereby set aside, and the case is remanded for further consideration consistent with this opinion.

Dated, Washington, D.C.  
May 14, 1999

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member