

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALBERT JOHNSON and U.S. POSTAL SERVICE,
AIRPORT MAIL CENTER, Dallas, TX

*Docket No. 00-972; Submitted on the Record;
Issued March 20, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant sustained no more than a six percent permanent impairment of the right thumb for which he received a schedule award.

On January 10, 1999 appellant, then a 49-year-old mailhandler/machine operator, fractured his right thumb when he drove his work vehicle into a hole, causing the steering wheel to rotate and hit his thumb. Appellant stopped work on January 13, 1999. He returned to limited-duty work on March 9, 1999 and was released to full duty effective April 26, 1999.

Appellant sought treatment on January 12, 1999 from Dr. Steven E. Johnson, Board-certified in internal medicine. In his report of that date, Dr. Johnson stated that an x-ray revealed a fracture of the first metacarpal of the thumb.

Subsequently, appellant submitted a progress note dated January 13, 1999 from Dr. Kelly R. Kunkel, a Board-certified plastic surgeon, noting the history of appellant's January 10, 1999 employment injury, examination findings and treatment plan. Appellant's x-ray showed a fracture at the base of the thumb metacarpal. In a January 18, 1999 report, Dr. Kunkel diagnosed a displaced fracture of the right thumb metacarpal and described appellant's open reduction and internal fixation of the right thumb. Appellant also submitted reports dated January 18 and 29, 1999 and notes dated February 3 to April 14, 1999.

On September 30, 1999 appellant filed a claim for a schedule award.

In a report dated July 6, 1999, Dr. Kunkel provided a history of appellant's January 10, 1999 employment injury. Referring to the American Medical Association (A.M.A.), *Guides to the Evaluation of Permanent Impairment*, third edition, she calculated the following percentages of impairment for appellant's right thumb: (1) 55 degrees interphalangeal (IP) joint flexion equaled 1 percent; (2) 0 IP joint extension equaled 1 percent; (3) 40 degrees metacarpophalangeal (MP) joint flexion equaled 2 percent; (4) 0 MP joint extension equaled 0

percent; and (5) 35 degrees CMC abduction equaled 2 percent. Using Figure 1 on page 16, Dr. Kunkel determined that appellant sustained a total digit impairment of five percent by adding her IP, MP and CMC findings. Using Table 1 on page 18 of the A.M.A., *Guides*, she found that appellant sustained a two percent right hand impairment. Using Table 2 on page 19, Dr. Kunkel found that appellant sustained a two percent upper extremity impairment.

In a report dated October 21, 1999, an Office medical adviser reviewed Dr. Kunkel's July 6, 1999 report and found that appellant had reached maximum medical improvement on that date. He calculated a percentage of permanent impairment based on the fourth edition of the A.M.A., *Guides* using percentages provided by Dr. Kunkel. Referring to pages 26 through 29, Figures 10, 13 and 15 and Tables 5 through 7, the Office medical adviser determined the following percentages of impairment: (1) 55 degrees IP joint flexion equaled 1 percent; (2) 0 degree IP joint extension equaled 1 percent; (3) 40 degrees MP joint flexion equaled 2 percent; (4) 0 degree MP joint extension equaled 0 percent; and (5) 35 degrees CMC abduction equaled 2 percent. Using the Combined Values Chart on page 322, he combined one, one, two and two percent and found a six percent impairment of the thumb equaling a two percent impairment of the hand due to loss of motion.

Dr. Mobley noted that the Office medical adviser used the third edition of the A.M.A., *Guides*, but he opined that the appropriate figure from the fourth edition A.M.A., *Guides* resulted in the same percentage of impairment. He stated that "the relevant tables are similar and the method of determination of the impairment by Dr. Kunkel is so clear. The one percent difference between Dr. Kunkel's figure (five percent) and my figure (six percent) is a difference in the interpretation of the range of motion tables of the A.M.A., *Guides*."

By decision dated December 23, 1999, the Office granted appellant a schedule award in the amount of \$1,628.87 for a 6 percent right thumb impairment for the period July 6 to August 6, 1999 for a total of 4.5 weeks of compensation.

The Board finds that appellant sustained no more than a six percent permanent impairment of the right thumb for which he received a schedule award.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use of specified members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be 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 A.M.A., *Guides* has been adopted by the Office and the Board has concurred in such adoption, as an appropriate standard for evaluating scheduled losses.³

¹ 5 U.S.C. § 8107(c).

² 20 C.F.R. § 10.404.

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

In this case, the Office medical adviser properly rated appellant's impairment under the A.M.A., *Guides*. In his October 21, 1999 report, he relied upon Dr. Kunkel's clinical findings but recommended a six percent permanent right thumb impairment rating due to loss of motion. The Office medical adviser properly relied upon the fourth edition as Office procedures direct the use of the third edition, revised, for schedule awards determined between September 1, 1991 and October 31, 1993 and the fourth edition, issued in 1993, for schedule awards determined on and after November 1, 1993.⁴

The Board finds that the Office medical adviser's calculation is correct and that appellant has not established that he is entitled to a schedule award for more than a six percent impairment of the right thumb.

The decision of the Office of Workers' Compensation Programs dated December 23, 1999 is hereby affirmed.

Dated, Washington, DC
March 20, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁴ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700 exh. 4 (October 1995).