

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDWARD J. ZIPFEL and U.S. POSTAL SERVICE,
MAIN POST OFFICE ANNEX, Cincinnati, OH

*Docket No. 00-1000; Submitted on the Record;
Issued November 13, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for a schedule award for his emotional condition.

On March 30, 1987 appellant, then a 41-year-old postal clerk, filed a claim for severe anxiety, which he related to harassment at work. He had stopped working on March 12, 1987. In an accompanying statement, appellant stated that he had reported a coworker for stealing at the employing establishment and had been subjected to harassment and threats since that time. Other employees at the employing establishment claimed that appellant had engaged in harassment and confrontations with coworkers and supervisors, occasionally making racist and profane statements. The Office accepted appellant's claim for adjustment reaction and post-traumatic stress syndrome and began payment of temporary total disability compensation for the period March 14 through September 20, 1987. Appellant returned to light-duty work on September 21, 1987 but stopped again on November 9, 1987. The Office resumed payment of temporary total disability compensation effective November 9, 1987.

In a September 28, 1998 letter, appellant filed a claim for a schedule award for his emotional condition. In a February 19, 1998 decision, the Office denied appellant's claim for a schedule award on the grounds that the Federal Employees' Compensation Act did not grant schedule awards for the effects of an emotional condition.

Appellant requested a hearing before an Office hearing representative. At the August 26, 1999 hearing, appellant contended that his emotional condition was due to an impairment of the brain. He argued that, as the brain was an organ of the body, he should receive a schedule award for the impairment of the brain that was attributable to his emotional condition. In an October 21, 1999 decision, the Office hearing representative stated that an emotional condition was not specified in the Act or pertinent regulations¹ as a member, function or organ of the body

¹ 5 U.S.C. § 8107(c); 20 C.F.R. § 10.404(a).

for which appellant could receive a schedule award. He therefore found that appellant was not entitled to a schedule award for an emotional condition.

The Board finds that appellant is not entitled to a schedule award for an emotional condition.

The schedule award provisions of the Act and its implementing regulation provide for payment of schedule awards for permanent loss, or loss of use of specified anatomical members or functions of the body. A schedule award is not payable for the loss, or loss of use of a member, function, or organ of the body not specifically enumerated in the Act or its regulations. Emotional conditions are not enumerated in the specific applicable provisions of the Act or the accompanying regulations. The Act therefore does not provide for a schedule award for emotional conditions.²

Appellant contended that the emotional condition was a manifestation of an impairment of the brain, an organ of the body. The Act, however, defines “organ” as “a part of the body that performs a special function and, *for purposes of this subchapter excludes the brain, heart and back;...*”³ (Board emphasis.) Therefore, under the Act, no schedule award can be issued for an impairment of the brain.

The decisions of the Office of Workers’ Compensation Programs, dated October 21 and February 19, 1999, are hereby affirmed.

Dated, Washington, DC
November 13, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

² *Ann L. Tague*, 49 ECAB 453 (1998).

³ 5 U.S.C. § 8101(20).