United States Department of Labor
Employees' Compensation Appeals Board

D.S., Appellant	)	
and	)	**Docket No. 08-1849**
	)	**Issued: January 22, 2009**
U.S. POSTAL SERVICE, POST OFFICE, Effingham, IL, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 19, 2008 appellant filed a timely appeal from the February 4, 2008 merit decision of the Office of Workers' Compensation Programs, which awarded schedule compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

ISSUE

The issue is whether appellant has more than a two percent impairment of her right upper extremity or any impairment of her left upper extremity.

FACTUAL HISTORY

On April 30, 2002 appellant, then a 36-year-old rural carrier, filed a claim for compensation alleging that she developed carpal tunnel syndrome in the performance of duty: "When I would pick up a hand full of flats with either hand I would feel a pop and my hand would go numb. I would also wake at night and both hands would be numb like they were

asleep. I would also feel the pop and numbness in left hand while driving." The Office accepted her claim for bilateral epicondylitis and bilateral carpal tunnel syndrome.

Appellant underwent right elbow surgery on October 18, 2002. On July 1, 2003 Dr. Nash H. Naam, appellant's hand surgeon, reported that she was generally doing very well, but still had some degree of discomfort with the use of appellant's right upper extremity. On examination Dr. Naam reported that her surgical scar was completely healed. There was no tenderness over the scar. Active range of motion of the wrist was excellent and active range of motion of the elbow was completely normal. He discharged appellant from regular medical attention.

On January 30, 20007 appellant filed a claim for a schedule award. The Office provided Dr. Naam with an impairment evaluation form for the wrists and another impairment evaluation form for the hands and fingers. It asked Dr. Naam to examine appellant and provide the information requested on the forms. On May 17, 2007 Dr. Naam completed the forms and reported his current clinical findings.

The Office asked its medical adviser to review Dr. Naam's May 17, 2007 report and determine the extent of permanent impairment to appellant's upper extremities. The Office medical adviser stated that he reviewed appellant's chart, including Dr. Naam's notes and the notations of occupational therapists. He determined that appellant had a two percent impairment of the right upper extremity due to occasional right elbow pain. The Office medical adviser noted that active range of motion of the elbow was normal. He noted no mention of any sensory deficit in either the right or left upper extremity. The Office medical adviser noted grip strength findings from July 1, 2003 and stated that the remainder of the physical examination was unremarkable. He reported that maximum medical improvement was estimated to have occurred on July 1, 2003, when Dr. Naam discharged appellant from his care.

On February 4, 2008 the Office issued a schedule award for a two percent impairment of appellant's right upper extremity and a zero percent impairment of her left.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act[1] authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.[2]

To support a schedule award, the file must contain competent medical evidence that describes the impairment in sufficient detail for the adjudicator to visualize the character and degree of disability. The report of the examination must always include a detailed description of the impairment which includes, where applicable, the loss in degrees of active and passive

[1] 5 U.S.C. § 8107.

[2] 20 C.F.R. § 10.404 (1999).

motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent description of the impairment. The Office should advise any physician evaluating permanent impairment to use the fifth edition of the A.M.A., *Guides* and to report findings in accordance with those guidelines.[3]

ANALYSIS

When appellant filed her claim for a schedule award, the Office asked for a current medical examination. It provided Dr. Naam, her hand surgeon, with impairment evaluation forms so he could report his clinical findings in a manner that would facilitate review. He completed these forms on May 17, 2007.

Although the Office asked its medical adviser to review Dr. Naam's May 17, 2007 report, he made no mention of it. He noted none of the current clinical findings Dr. Naam reported. Instead, it appears the Office medical adviser referred to an office note Dr. Naam wrote on July 1, 2003. This note is brief, appears to be limited to the right elbow and wrist, and quantifies active range of motion with such impermissibly vague language as "excellent" and "completely normal."[4] The Board finds that this note does not describe the impairment of either upper extremity in sufficient detail to support the February 4, 2008 schedule award.

The Board will set aside the Office's February 4, 2008 decision and will remand the case for further development of the medical evidence. The Office medical adviser should review Dr. Naam's May 17, 2007 clinical findings and determine whether they are sufficiently detailed to support a proper rating of each upper extremity under the A.M.A., *Guides*. Should the Office require additional information from Dr. Naam on ranges of motion for each elbow, or the identification of affected (injured) nerves or the specific grading of any sensory or motor deficit under Tables 16-10 and 16-11 or the results of a nerve conduction study under scenario 1, page 495, it should request a supplemental report. Also, the Office should note that, in compression neuropathies, additional impairment values are not given for decreased grip strength or, in the absence of complex regional pain syndrome, for decreased motion.[5] After such further development of the evidence as may be necessary, the Office shall issue an appropriate final decision on appellant's entitlement to a schedule award.

CONCLUSION

The Board finds that this case is not in posture for decision. Further development of the medical evidence is warranted.

[3] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6 (August 2002).

[4] The A.M.A., *Guides* requires actual measured goniometric readings. A.M.A., *Guides* 451.

[5] *Id*. at 494.

ORDER

IT IS HEREBY ORDERED THAT the February 4, 2008 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Issued: January 22, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board