

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TROY C. PALMER and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Hines, Ill.

*Docket No. 96-1940; Submitted on the Record;
Issued April 27, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has more than a 41 percent permanent impairment of her right ring finger for which she received schedule awards.

The Board has duly reviewed the case record in the present appeal and finds that the case is not in posture for decision.

An employee seeking compensation under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative, and substantial evidence,² including that she sustained an injury in the performance of duty as alleged and that her disability, if any, was causally related to the employment injury.³

Section 8107 of the Act provides that if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.⁴ Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants the Office of Workers' Compensation Programs has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁵

¹ 5 U.S.C. §§ 8101-8193.

² *Donna L. Miller*, 40 ECAB 492, 494 (1989); *Nathanial Milton*, 37 ECAB 712, 722 (1986).

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ 5 U.S.C. § 8107(a).

⁵ *James Kennedy, Jr.*, 40 ECAB 620, 626 (1989); *Charles Dionne*, 38 ECAB 306, 308 (1986).

In the present case, the Office stated that appellant sustained a fracture and post-traumatic arthritis of her right ring finger at work on October 20, 1992. By award of compensation dated August 11, 1993, appellant received a schedule award for a 22 percent permanent impairment of her right ring finger; by award of compensation dated April 24, 1996, she received a schedule award for an additional 19 percent permanent impairment of her right ring finger. Appellant alleged that she has more than a 41 percent permanent impairment of her right ring finger.

The Office based its assessment of appellant's total permanent impairment on the April 3, 1996 report of an Office medical consultant who evaluated the findings of Dr. Elaine Adams, a Board-certified internist to whom the Office referred appellant. The Office medical consultant properly determined that the 30 degrees of flexion in the distal interphalangeal joint of appellant's right ring finger entitled her to a 21 percent impairment rating and that the 90 degrees of flexion in the proximal interphalangeal joint entitled her to a 6 percent impairment rating.⁶ The Office medical consultant also indicated that appellant was entitled to a 20 percent impairment rating due to pain and weakness in her right finger.⁷ However, it is unclear from the record how this particular rating was obtained in accordance with the relevant standards of the A.M.A., *Guides*. The A.M.A., *Guides* details specific testing methods for evaluating sensory deficits, including pain, in the fingers; this testing system was introduced by the Nerve Injuries Committee of the British Medical Research Council and has been incorporated into the standards of the A.M.A., *Guides*.⁸ It does not appear from the record that such testing was conducted in conjunction with the evaluation of appellant's permanent impairment. Therefore, the case will be remanded to the Office for further evaluation of appellant's permanent impairment in accordance with the relevant standards of the A.M.A., *Guides* to be followed by the issuance an appropriate decision. Such evaluation should include referral to a specialist for the performance of the relevant testing and evaluation.⁹

⁶ See A.M.A., *Guides* 32-33, figures 19, 21.

⁷ Dr. Adams indicated that appellant had significant sensory and motor deficits in her right ring finger, particularly upon use of the finger.

⁸ See A.M.A., *Guides* 15-22, 24.

⁹ Appellant has employment-related post-traumatic arthritis of her right ring finger, but it does not appear that the A.M.A., *Guides* provides an impairment rating scheme for such a condition. It should also be noted that is unclear whether appellant was evaluated for deficits upon extension of her right ring finger; see A.M.A., *Guides* 32-34, figures 19, 21, 23.

The decision of the Office of Workers' Compensation Programs dated April 24, 1996 is set aside and the case remanded to the Office for further proceedings consistent with this decision of the Board.

Dated, Washington, D.C.
April 27, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member