

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JESUS Y. RICASA and U.S. POSTAL SERVICE,  
POST OFFICE, Capitol Heights, Md.

*Docket No. 96-1034; Submitted on the Record;  
Issued January 22, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant had a 10 percent permanent impairment to the right upper extremity and a 0 percent impairment to the left upper extremity for which he received a schedule award.

On March 29, 1994 appellant, then a 36-year-old mailhandler, filed a claim for bilateral carpal tunnel syndrome which he attributed to the repetitive motions required by his employment. The Office accepted the claim for bilateral carpal tunnel syndrome. Appellant underwent surgical release procedures in treatment of his condition.

On September 19, 1995 appellant filed a claim for a schedule award.

Appellant was treated by Dr. Harvey Shapiro who was requested by the Office to provide an evaluation of the permanent impairment in conformance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment*. In a report dated November 27, 1995, Dr. Shapiro opined that appellant had a zero percent impairment of the left upper extremity due to no loss of function resulting from sensory deficit, pain or discomfort. Regarding the right upper extremity, Dr. Shapiro opined that appellant had a 10 percent impairment due to loss of function resulting from sensory deficit, pain or discomfort. He then estimated that the overall loss of function was 10 percent for the right hand and 0 percent for the left hand based upon the relevant tables of the *Guides*.

On December 10, 1995 an Office medical adviser reviewed Dr. Shapiro's reports and agreed with Dr. Shapiro that appellant had a 10 percent permanent impairment of the right upper extremity.

On December 19, 1995 the Office granted appellant a schedule award for 10 percent impairment of his right upper extremity. The period of the schedule award ran from November 27, 1995 to July 2, 1996.

The Board finds that appellant has no more than a 10 percent impairment of his right upper extremity and a 0 percent impairment for his left upper extremity.

The schedule award provisions of the Federal Employees' Compensation Act<sup>1</sup> and the implementing federal regulations<sup>2</sup> set forth the number of weeks of compensation to be paid for permanent loss of members, functions and organs of the body listed in the schedule. However, neither the Act nor the regulations specify the manner in which the percentage loss of a member, function or organ shall be determined. The method used in making such a determination is a matter that rests in the sound discretion of the Office.<sup>3</sup> The Office has determined that a single set of tables should govern all claimants in order to maintain consistency and to ensure equal justice under the law.<sup>4</sup> The Office has adopted the A.M.A., *Guides* when calculating the physical impairment for all initial schedule award decisions. Under the *Guides*, the standards for evaluating the extent of permanent impairment of an affected member are based on loss of range of motion, pain and lost of strength.<sup>5</sup>

Dr. Shapiro opined, based upon the *Guides*, that appellant had a ten percent permanent impairment to his right upper extremity and a zero percent impairment to the left upper extremity. The Office medical adviser concurred with Dr. Shapiro that appellant had a 10 percent permanent impairment of his right upper extremity. Accordingly, the medical evidence of record does not establish that appellant has a greater impairment than that found by his treating physician, Dr. Shapiro, and the Office medical adviser.

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.304.

<sup>3</sup> See *Richard W. Robinson*, 39 ECAB 484 (1988); *Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

<sup>4</sup> See *Danniel C. Goings*, *supra* note 3; *Richard Beggs*, *supra* note 3.

<sup>5</sup> See *Harold T. Nelson*, 42 ECAB 763 (1991).

The decision of the Office of Workers' Compensation Programs dated December 19, 1995 is hereby affirmed.

Dated, Washington, D.C.  
January 22, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member