

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GAYLOR PARVIN and DEPARTMENT OF THE ARMY,
REDSTONE ARSENAL, Huntsville, Ala.

*Docket No. 97-1228; Submitted on the Record;
Issued February 8, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has more than a 15 percent permanent impairment of the left arm.

On November 19, 1957 appellant, then a 28-year-old welder, was welding a crack on a waste deflector. Someone in the control room accidentally pushed the control fuel switch causing some highly flammable fuel to be released. The fuel ignited and appellant was set on fire, causing him to fall from his scaffolding where he was welding. The Office of Workers' Compensation Programs accepted appellant's claim for multiple burns of the face and chin, laceration of the chin, laceration and contusion of the right knee and fracture of the left elbow at head of radius. He received a schedule award for a 15 percent permanent impairment of the left arm.¹ In a January 29, 1997 decision, the Office found that appellant was not entitled to an increased schedule award.

The Board finds that appellant has no more than a 15 percent permanent impairment of the left arm.

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulation³ set forth the number of weeks of compensation to be paid for permanent loss, or loss of use, of members or functions of the body listed in the schedule. However, neither the Act nor its regulations specify the manner, in which the percentage loss of a member shall be determined. For consistent results and to ensure equal justice to all claimants,

¹ Due to the lapse in time between the employment injury and appellant's request for an increased schedule award, most of appellant's records were destroyed. Although some older documents are not contained in the record submitted on appeal, there are sufficient records to establish the facts in this case.

² 5 U.S.C. § 8107(c).

³ 20 C.F.R. § 10.304.

the Board has authorized the use of a single set of tables in evaluating schedule losses, so that there may be uniform standards applicable to all claimants seeking schedule awards. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.⁴

In an October 24, 1996 note, Dr. R. Dale Culpepper, an orthopedic surgeon, indicated that appellant had a range of motion from 45 to 125, pronation to 80 and supination to 75 degree. Dr. Culpepper noted that appellant had pain on the extremes of extension but no pain on pronation or supination. He reported that appellant had a normal neurological examination in the left arm. Dr. Culpepper stated that appellant had no significant weakness but did have some give away weakness associated with pain. He indicated that x-rays of the left elbow showed some spurring along the joint space that was consistent with post-traumatic osteoarthritis. In an October 29, 1996 note, Dr. Culpepper stated that appellant had a 10 percent permanent impairment of the left arm based on the range of motion of the elbow in the A.M.A., *Guides*. The evidence of record from appellant's own treating physician does not show that he has a permanent impairment of the left arm greater than the 15 percent he has already been awarded.

The decision of the Office of Workers' Compensation Programs dated November 26, 1996 is hereby affirmed.

Dated, Washington, D.C.
February 8, 1999

George E. Rivers
Member

David S. Gerson
Member

Michael E. Groom
Alternate Member

⁴ *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).