

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARLA J. TABAJ and U.S. POSTAL SERVICE,
POST OFFICE, Church Hill, TN

*Docket No. 98-229; Submitted on the Record;
Issued July 26, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
DAVID S. GERSON

The issue is whether appellant has more than a two percent impairment of her left upper extremity for which she received a schedule award.

The Board has reviewed the case record and concludes that the case is not in posture for a decision.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a left wrist strain and de Quervain's disease in the course of her employment on August 2, 1995. Appellant underwent surgery for the de Quervain's disease on May 20, 1996.

On June 3, 1997 Dr. E. Brantley Burns, a Board-certified orthopedic surgeon specializing in hand surgery, diagnosed contracture of the left wrist and first dorsal compartment nerve symptoms of the left hand. Dr. Burns indicated that appellant had reached maximum medical improvement. He indicated that appellant had a very mild impairment of the left upper extremity from two sources. Dr. Burns stated that there were mild nerve symptoms on the dorsum of the wrist and hand, which could not be substantiated objectively. He stated that nerve testing in this area was unreliable and that two point discrimination was not applicable. Dr. Burns indicated that according to Table 11, page 48 and Table 15, page 54 of the American Medical Association, *Guides to the Evaluation of Permanent*, appellant has a one percent impairment due of this upper extremity due to nerve symptoms. He further indicated that contracture of tendons was not specifically mention in the A.M.A., *Guides*. Dr. Burns estimated, however, that appellant had an additional one percent upper extremity impairment due to the tightness of the tendons radially that limit combined wrist ulnar deviation and thumb flexion. He, therefore, found a two percent impairment of the upper extremity based on a one percent impairment for appellant's nerve condition and a one percent impairment due to tendon tightness.

On September 4, 1997 the Office medical adviser reviewed Dr. Burns' opinion and agreed with his determination that appellant had a two percent impairment of the left upper extremity.

On October 3, 1997 the Office granted appellant a schedule award for a two percent impairment to her left upper extremity.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations² set forth the number of weeks of compensation to be paid for permanent loss, or loss of use, of body members listed in the schedule. The Act, however, does not specify the manner in which the percentage of loss of a member shall be determined. The method for making such a determination rests in the sound discretion of the Office. The Office has adopted, and the Board has approved, the use of the A.M.A., *Guides*,³ as an appropriate standard for evaluating schedule losses.⁴

In the instant case, both Dr. Burns and the Office medical adviser failed to fully explain their conclusions that appellant had a two percent impairment of the left upper extremity. Dr. Burns described appellant's mild nerve symptoms on the dorsum of the wrist and hand and indicated that pursuant to Table 11, page 48 and Table 15, page 54 of the A.M.A., *Guides* appellant had a one percent impairment of her upper extremity. Dr. Burns, however, failed to sufficiently describe how he used these tables in order to understand his impairment rating. Moreover, he failed to indicate which table of the A.M.A., *Guides* he used in determining that appellant had an additional one percent impairment of the upper extremity due to tightness of the tendons radially that limit combined wrist ulnar deviation and thumb flexion. Inasmuch as Dr. Burns' two percent impairment rating is not fully explained, it is entitled to little weight.⁵ In addition, the Office medical adviser simply agreed with Dr. Burns' impairment finding without providing any explanation of his own. This opinion, therefore, is also entitled to little weight.⁶ Accordingly, the Board finds that this case must be remanded for further development.

On remand the Office should refer the case record to Dr. Burns or another consultant to provide a fully explained medical opinion pursuant to the A.M.A., *Guides* (4th ed. 1993). After further development as it may find necessary, the Office should issue a *de novo* decision.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

³ A.M.A., *Guides* (4th ed. 1993).

⁴ *Kenneth E. Leone*, 46 ECAB 133 (1994).

⁵ *Paul R. Evans*, 44 ECAB 646 (1993).

⁶ *Id.*

The decision of the Office of Workers' Compensation Programs dated October 3, 1997 is hereby set aside and the case is remanded for further development consistent with this opinion.

Dated, Washington, D.C.
July 26, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

David S. Gerson
Member