

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSEPH W. SCHNEPF and U.S. POSTAL SERVICE,
POST OFFICE, Quincy, Ill.

*Docket No. 97-2386; Submitted on the Record;
Issued June 15, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has more than a 12 percent impairment of the right upper extremity, for which he received a schedule award.

The Board has duly reviewed the case record and concludes that appellant has no greater than a twelve percent impairment of the right upper extremity.

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.304 of the implementing federal regulations,² schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment*³ (hereinafter A.M.A., *Guides*) have been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁴

On November 9, 1993 appellant, then a 48-year-old clerk, filed an occupational disease claim, alleging that his right shoulder condition was employment related. The Office of Workers' Compensation Programs accepted that he sustained work-related resolved right shoulder cuff tear, right chronic biceps tendinitis and right rotator cuff tendinitis. On January 25,

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

³ A.M.A., *Guides* (4th ed. 1993).

⁴ See *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

1996 he filed a claim for a schedule award. By decision dated February 6, 1997, the Office granted appellant a schedule award for a 12 percent permanent impairment of the right upper extremity for a total of 37.44 weeks of compensation, to run from May 9, 1996 to January 26, 1997. The Office based its decision on the January 18, 1997 opinion of the Office medical adviser who applied the standards of the A.M.A., *Guides* to the May 9, 1996 findings of Dr. Mark A. Adams, an attending Board-certified orthopedic surgeon. Appellant timely requested reconsideration and, in an April 28, 1997 decision, the Office denied his request. The instant appeal follows.

The Board notes that the Office medical adviser correctly applied the relevant standards of the A.M.A., *Guides* to Dr. Adams' findings in order to determine that appellant had a 12 percent permanent impairment of his right upper extremity. He properly utilized Figures 38, 41 and 44 and determined that appellant was entitled to a 9 percent impairment rating for limited range of motion of his right shoulder: 3 percent due to 140 degrees of flexion; 5 percent due to 80 degrees of active abduction; and 1 percent for 30 degrees of external rotation.⁵ The Office medical adviser utilized Tables 11 and 15 and determined that appellant was entitled to a 3 percent impairment rating due to pain in the suprascapular nerve distribution.⁶ He then properly combined the two impairment ratings, using the Combined Values Chart, to determine that appellant had a total permanent impairment of the right upper extremity of 12 percent.⁷

It is appellant's burden to submit sufficient evidence to establish his claim.⁸ While Dr. Adams indicated that appellant had a 30 percent right upper extremity impairment, he did not indicate what tables and/or figures he utilized to reach this conclusion. There is, therefore, no medical evidence establishing that appellant has greater than a 12 percent impairment, for which he received a schedule award.

⁵ A.M.A., *Guides*, *supra* note 3 at 43-45.

⁶ *Id.* at 48, 54.

⁷ *Id.* at 322.

⁸ See *Annette M. Dent*, 44 ECAB 403 (1993).

The decisions of the Office of Workers' Compensation Programs dated April 28 and February 6, 1997 are hereby affirmed.

Dated, Washington, D.C.
June 15, 1999

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member