

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LOUIS C. MUSELLA and U.S. POSTAL SERVICE,
POST OFFICE, Lakewood, NJ

*Docket No. 97-2895; Submitted on the Record;
Issued October 21, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant established that he has greater than a 10 percent permanent impairment of the right lower extremity, for which he received a schedule award.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office of Workers' Compensation Programs dated and finalized on June 25, 1997 is in accordance with the facts and the law in this case, and hereby adopts the findings and conclusions of the hearing representative.¹

¹ The Office properly determined that a conflict of medical opinion existed and, therefore, referred appellant to an impartial medical examiner. 5 U.S.C. § 8123(a); *see Shirley L. Steib*, 46 ECAB 309, 317 (1994). In cases where the Office has referred appellant to an impartial medical examiner to resolve a conflict in the medical evidence, the opinion of such a specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight. *Gary R. Sieber*, 46 ECAB 215, 225 (1994). The Board finds that the impartial medical examiner's September 27, 1996 opinion is sufficiently well rationalized and based upon a proper factual background. Furthermore, the Office medical adviser concurred with the impartial medical examiner's assessment of a seven percent permanent impairment of the right lower extremity.

The decision of the Office of Workers' Compensation Programs dated June 25, 1997 is hereby affirmed.

Dated, Washington, D.C.
October 21, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member