U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NATHAN C. JONES and U.S. POSTAL SERVICE,
INCOMING MAIL FACILITY, Linthicum, MD

Docket No. 98-395; Submitted on the Record;
Issued October 7, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has more than a 26 percent permanent impairment of the left hand.

On January 9, 1996 appellant, then a 32-year-old building equipment mechanic, was using a snow blower outside the employing establishment. He bent down to remove snow from the top of the snow blower when he slipped and his left hand went into the snow exhaust chute, resulting in the severing of his middle and index fingers. He underwent surgery that day for completion of the amputation of the fingers and neurectomies in both fingers. Appellant stopped working the day of the employment injury. The Office of Workers' Compensation Programs accepted appellant's claim for traumatic amputation of the left middle and index fingers.[1] Appellant received continuation of pay for the periods January 10 through January 23 and February 14 through March 4, 1996. Appellant stopped work again on August 8, 1996 and received temporary total disability compensation or authorization to buy back leave for the periods he did not work. He underwent additional surgery on September 4, 1996 to remove a fingernail remnant on the left index finger. He returned to a modified, light-duty position on April 7, 1997.

On January 6, 1997 appellant filed a claim for a schedule award. In a September 30, 1997 decision, the Office issued a schedule award for a 26 percent permanent impairment of the left hand.

The Board finds that the case is not in posture for decision.

---

[1] The Office subsequently accepted appellant's claim for post-traumatic stress disorder arising from the January 6, 1996 employment injury.

The schedule award provision of the Federal Employees' Compensation Act[2] and its implementing regulation[3] 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, 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*[4] has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.[5]

In a May 27, 1997 report, Dr. Michael S. Murphy, an orthopedic surgeon, related that appellant had pain when exposed to cold. He reported that appellant had amputation at the distal interphalangeal joint in the index finger with 70 degrees of flexion at the proximal interphalangeal joint and amputation at the proximal interphalangeal joint in the middle finger. Dr. Murphy found no neuromas in the fingers. He reported that appellant had reduced grip strength in the left hand when compared to the right hand. Dr. Murphy calculated that appellant had a 23 percent permanent impairment of the hand due to the amputations of the fingers and a 30 percent permanent impairment based on the loss of grip strength which he combined for a total permanent impairment of 46 percent of the arm.

In an August 5, 1997 memorandum, an Office medical adviser indicated that appellant had a 40 percent permanent impairment of the left index finger due to amputation at the distal interphalangeal joint[6] and an 18 percent permanent impairment for loss of flexion at the proximal interphalangeal joint[7] for a total permanent impairment of 51 percent for the left index finger which converted into a 10 percent permanent impairment of the hand.[8] He indicated that appellant had an 80 percent permanent impairment of the left middle finger for amputation of the proximal interphalangeal joint which converted into a 16 percent permanent impairment of the hand. He concluded that appellant had a 26 percent permanent impairment of the hand.

Under the Office's procedures, when a claimant has lost one phalanx of a finger, he is to receive a schedule award for a 50 percent permanent impairment of the finger; for the loss of

[2] 5 U.S.C. § 8107(c).

[3] 20 C.F.R. § 10.304.

[4] fourth edition (1993).

[5] *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).

[6] A.M.A., *Guides*, p. 30, Figure 17.

[7] A.M.A., *Guides*, p. 33, Figure 21.

[8] A.M.A., *Guides*, p. 18, Table 1.

two phalanxes of the finger the Federal (FECA) Procedure Manual provides for a 100 percent permanent impairment of that finger.[9] Any additional impairment for pain, loss of motion in a remaining joint, swelling or other such condition is to be added into the calculation of the schedule award. The Office, therefore, erred in only giving appellant a 40 percent permanent impairment for amputation of the index finger at the distal interphalangeal joint and an 80 percent permanent impairment for amputation of the middle finger at the proximal interphalangeal joint when he should have received 50 percent and 100 percent respectively. Dr. Murphy also indicated that appellant had pain in the hand when exposed to cold and loss of grip strength. The Office's procedures also indicate that the permanent impairment for the loss of two or more fingers should be given in terms of permanent impairment of the hand but, if a claimant would receive more compensation for individual schedule awards for each fingers than he would for a single schedule award for the hand, he should receive the schedule awards for the fingers. The case must therefore be remanded for further development. The Office medical adviser should recalculate appellant's schedule award in accordance with the Office's procedures and take into account any permanent impairment caused by pain, loss of motion in any remaining joint or loss of strength. He should then determine which schedule award or awards would result in greater compensation for appellant. After further development as it may find necessary, the Office should issue a *de novo* decision.

The decision of the Office of Workers' Compensation Programs, dated September 30, 1997, is hereby set aside and the case remanded for further action in accordance with this decision.

Dated, Washington, D.C.
October 7, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

[9] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(a)(2) (October 1990)