

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JESSIE R. DOSS and U.S. POSTAL SERVICE,
POST OFFICE, Sacramento, CA

*Docket No. 98-1670; Submitted on the Record;
Issued November 16, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has more than a 10 percent permanent impairment of the left and right upper extremities.

The Board has duly reviewed the record on appeal and finds that this case is not in posture for decision.

Section 8107 of the Federal Employees' Compensation Act¹ and section 10.304 of the implementing federal regulations² authorize the payment of schedule awards for the loss or permanent impairment of specified members, functions or organs of the body. Neither the Act nor the regulations, however, specify how the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants, the Office of Workers' Compensation Programs has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the standard for determining the percentage of impairment and the Board has concurred in such adoption.³

In his February 21, 1997 report, Dr. Aubrey A. Swartz, appellant's attending orthopedic surgeon, provided the following range of motion findings for the right wrist: 10 degrees flexion; 10 degrees extension; 10 degrees radial deviation; and 10 degrees ulnar deviation. According to Figure 26, page 36, and Figure 29, page 38, of the A.M.A., *Guides* (4th ed. 1993), these findings represent upper extremity impairments of 8 percent, 8 percent, 2 percent and 4 percent respectively. Because the relative value of each wrist functional unit has been taken into consideration in the impairment charts, impairments of flexion and extension and of radial and

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

³ See, e.g., *Leisa D. Vassar*, 40 ECAB 1287 (1989).

ulnar deviation are added to determine the impairment of the upper extremity.⁴ Dr. Swartz's findings, therefore, support a 22 percent impairment of the right upper extremity as a result of abnormal of wrist motion.

Dr. Swartz also provided the following range of motion findings for the left wrist: 20 degrees flexion; 20 degrees extension; 10 degrees radial deviation; and 10 degrees ulnar deviation. Using the same charts as above, these findings represent upper extremity impairments of 7 percent, 7 percent, 2 percent and 4 percent respectively, for a total impairment of the left upper extremity of 20 percent as a result of abnormal wrist motion.

On August 22, 1997 Dr. Arthur S. Harris, an orthopedic consultant to the Office, reviewed the medical record but did not interview or examine appellant. He reported that appellant's impairment could best be rated using the diagnosis-based method presented in Table 16, page 57, of the A.M.A., *Guides* because that method takes into account loss of motion, loss of strength and sensory deficit. Dr. Harris graded the degree of severity of appellant's residual carpal tunnel syndrome or median neuropathy as "mild" and rated her impairment at 10 percent for each upper extremity. Although Table 16, page 57, gives an impairment value of 10 percent for mild entrapment neuropathy, he did not explain how he selected this degree of severity. The range of motion findings reported by Dr. Swartz alone support twice the impairment given by Dr. Harris, so it is not clear why he reported that a 10 percent impairment of each upper extremity was a more accurate representation of appellant's residual impairment. The Board finds that Dr. Harris' opinion is of little probative value.

Dr. Swartz's opinion is probative with respect to range of motion but is wanting in other respects. Dr. Swartz reported a 10 percent impairment for each upper extremity due to sensory deficit but did not explain how he determined this. Table 11, page 48, of the A.M.A., *Guides* provides a grading scheme and procedure for determining impairment of the upper extremity due to pain or sensory deficit resulting from peripheral nerve disorders. Dr. Swartz also reported a 20 percent impairment due to median nerve entrapment on the right, but the A.M.A., *Guides* makes clear that diagnosis-based estimates are strictly an alternative method of evaluating impairment. The evaluator should not use both examination criteria and diagnosis-based estimates when evaluating impairment secondary to an entrapment neuropathy.⁵ He reported a 20 percent impairment of the right upper extremity due to tendinitis of the right wrist, but the Office has not accepted this condition as employment related. Finally, Dr. Swartz reported a 20 percent impairment of the right upper extremity due to grip loss, but again he did not explain how he determined this. Procedures for determining such impairment appear at pages 64 and 65 of the A.M.A., *Guides*. Because Dr. Swartz reported no similar finding on the left, it remains unclear whether the loss in grip strength on the right is secondary to the unaccepted tendinitis condition.

The Board will set aside the Office's October 29, 1997 decision, which awarded compensation based on a 10 percent impairment of each upper extremity. The Board will

⁴ A.M.A., *Guides* 38.

⁵ *Id.* at 56.

remand the case for further development of the medical evidence, including clarification of the causal relationship between appellant's federal employment and the tendinitis in her right wrist and the tendinitis/impingement in her right shoulder. The Office shall also obtain a proper evaluation of appellant's residual impairment under the protocols of the A.M.A., *Guides*. After such further development as may be necessary, the Office shall issue an appropriate final decision on appellant's entitlement to schedule compensation.

The October 29, 1997 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Dated, Washington, DC
November 16, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member