

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of LINDA G. ADKINS and DEPARTMENT OF THE AIR FORCE,  
TINKER AIR FORCE BASE, OK

*Docket No. 01-128; Submitted on the Record;  
Issued August 23, 2001*

---

DECISION and ORDER

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

The issue is whether appellant has established that she has greater than a four percent permanent impairment of her left upper extremity, for which she received a schedule award.

On July 18, 1990 appellant, then a 42-year-old motor vehicle operator, injured her left elbow while pulling a pallet from a truck. Appellant filed a claim for benefits on the date of injury, which was accepted by the Office of Workers' Compensation Programs on August 16, 1990 for epicondylitis of the left elbow.

In a letter received by the Office on December 5, 1997, appellant requested a schedule award based on partial loss of use of her left upper extremity, stemming from her accepted 1990 employment injury.

Dr. Laurence H. Altshuler, appellant's treating physician Board-certified in internal medicine, submitted an impairment evaluation dated June 24, 1998, and supplemental reports dated December 14, 1998 and January 25, 1999. Dr. Altshuler, citing the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fourth edition), calculated an 18 percent permanent impairment of the whole person. He stated that appellant had limited range of motion of the elbow pursuant to Figures 31 and 34 and Table 3 at pages 40 and 41 of the A.M.A., *Guides*, for a six percent impairment of the body; limited range of motion of the shoulder pursuant to Figures 38, 41 and 44 and Table 3, for a nine percent impairment of the body; sensory loss involving the ulnar nerve above the mid-forearm, for a six percent impairment of the body; motor loss of ten percent, equating to a three percent impairment of the body.<sup>1</sup>

In a memorandum/impairment worksheet dated November 16, 1998, an Office medical adviser determined that appellant had a four percent impairment of the left upper extremity resulting from her accepted left elbow epicondylitis condition. Relying on Dr. Altshuler's

---

<sup>1</sup> Dr. Altshuler clarified these findings in his December 14, 1998 and January 25, 1999 supplemental reports.

findings physical, the Office medical adviser found that, pursuant to Figure 32 at page 40 and Figure 35 at page 41, appellant had flexion of 130 degrees, amounting to a 1 percent impairment of the left upper extremity; no impairment from extension, supination of 55 degrees, amounting to a 1 percent impairment of the left upper extremity, and pronation of 50 degrees, amounting to a 2 percent impairment of the left upper extremity. He stated that no consideration was given to impairment based on shoulder and ulnar nerve conditions because these were not accepted conditions. He concluded appellant had a total of four percent impairment based on loss of range of motion.

In a supplemental memorandum dated July 14, 1999, an Office medical adviser noted that Dr. Altshuler found a six percent whole body impairment based on Figures 31 and 34 of the A.M.A., *Guides*, although these figures are used to calculate ankylosis of the left elbow, which was not an accepted condition, and that Figures 32 and 35 should be used to calculate loss of motion of the elbow. In all other respects, he reiterated the previous findings and conclusions of the November 16, 1998 impairment report.

By decision dated June 6, 2000, the Office granted appellant a schedule award for a four percent permanent impairment of the left upper extremity for the period from May 29 to August 24, 1998 for a total of 12.48 weeks of compensation.

The Board finds that appellant has no more than a four percent permanent impairment for loss of use of the left upper extremity, for which she received a schedule award.

The schedule award provision of the Federal Employees' Compensation Act<sup>2</sup> set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.<sup>3</sup> However, the Act does not specify the manner in which the percentage of loss of use of a member is to be determined. For consistent results and to insure equal justice under the law to all claimants, the Office has adopted the A.M.A., *Guides* (fourth edition) as the standard to be used for evaluating schedule losses.<sup>4</sup>

In the instant case, the Office determined that appellant had a four percent permanent impairment of her left upper extremity by adopting the findings of the Office medical adviser. The Office medical adviser determined the impairment rating by taking Dr. Altshuler's physical findings, which were contained in his June 24, 1998 report, and then applying these findings to the applicable figures and tables of the A.M.A., *Guides* to arrive at the total percentage of impairment in appellant of the left upper extremity. The Office medical adviser applied Dr. Altshuler's June 24, 1998 findings regarding loss of motion in the left elbow to Figures 32 and 35, at pages 40 and 41, and correctly calculated that appellant had a total of 4 percent impairment of the left upper extremity.

---

<sup>2</sup> 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(c).

<sup>3</sup> 5 U.S.C. § 8107(c)(19).

<sup>4</sup> 20 C.F.R. § 10.404.

The Board concludes that the Office medical adviser correctly applied the A.M.A., *Guides* in determining that appellant has no more than a four percent permanent impairment for loss of use of her left upper extremity, for which she has received a schedule award from the Office, and that appellant has failed to provide probative, supportable medical evidence that she has greater than the four percent impairment already awarded.

The decision of the Office of Workers' Compensation Programs dated June 6, 2000 is hereby affirmed.

Dated, Washington, DC  
August 23, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member