

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAMONA LLOYD and U.S. POSTAL SERVICE,
POST OFFICE, Zion, IL

*Docket No. 00-1736; Submitted on the Record;
Issued May 22, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a 10 percent permanent impairment of the right upper extremity or a 17 percent permanent impairment of the left upper extremity.

On December 13, 1996 appellant, then a 38-year-old letter carrier, was involved in a motor vehicle accident while in the performance of duty. The Office of Workers' Compensation Programs accepted her claim for subluxations at the C2, C6, T4, T8, T11 and L4 levels. In addition, the Office accepted bilateral rotator cuff tears and authorized surgical repairs.

Appellant filed a claim for a schedule award and submitted the January 11, 2000 report of Dr. Jeffrey G. Johnson, her attending chiropractor,¹ who evaluated appellant on January 4, 2000 and found her condition to be permanent and stationary. He related appellant's history of injury, her complaints and his findings on examination. For the right shoulder, appellant demonstrated the following ranges of motion: 120 degrees of flexion; 30 degrees of extension; 120 degrees of abduction; 30 degrees of adduction; 70 degrees of external rotation; and 70 degrees of internal rotation. For the left shoulder, appellant demonstrated the following: 80 degrees of flexion; 20 degrees of extension; 100 degrees of abduction; 20 degrees of adduction; 40 degrees of external rotation; and 60 degrees of internal rotation. Dr. Johnson also reported ranges of motion for appellant's cervical, thoracic and lumbosacral spine.

Using the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993), Dr. Johnson determined that appellant had a 13 percent impairment of the "whole person" due to decreased range of motion in the right shoulder and a 24 percent impairment of the whole person due to decreased range of motion in the left shoulder. He also reported the following whole-person impairments due to decreased range of motion: 10 percent for the cervical spine; 4 percent for the thoracic spine; and 7 percent for the lumbosacral spine.

¹ Dr. Johnson falls within the definition of "physician" under 5 U.S.C. § 8101(2). See generally *Theresa K. McKenna*, 30 ECAB 702 (1979).

An Office medical adviser determined that Dr. Johnson's clinical findings supported a 10 percent impairment of the right upper extremity and a 17 percent impairment of the left.

On February 22, 2000 the Office issued a schedule award for a 10 percent permanent impairment of the right upper extremity and a 17 percent permanent impairment of the left upper extremity.

On appeal appellant argues that she is entitled to be compensated for impairment to her cervical, thoracic and lumbosacral spine. She asks the Board to adjust the schedule award accordingly.

The Board finds that appellant has no more than a 10 percent permanent impairment of the right upper extremity and a 17 percent permanent impairment of the left upper extremity.

The schedule award provisions of the Federal Employees' Compensation Act² and its implementing federal regulations³ provide compensation for the permanent loss or loss of use of specified members, functions and organs of the body. No schedule award is payable for a member, function or organ of the body not specified in the Act or in the regulations.⁴ Because neither the Act nor the regulations provide for the payment of a schedule award for the permanent loss of use of the back or any region thereof, no claimant is entitled to such an award.⁵ Indeed, the Act expressly excludes the back from the definition of "organ."⁶ Notwithstanding Dr. Johnson's report that appellant sustained permanent impairment to her cervical, thoracic and lumbosacral spine, under the law appellant may receive no schedule award for such impairments.

Because the schedule award provisions of the Act include the extremities, a claimant may receive a schedule award for permanent impairment to an upper or lower extremity. A schedule award is not payable under the Act, however, for an impairment of the whole person.⁷ The Act provides specific compensation for permanent impairment to an arm or leg. The Office therefore properly limited its consideration to the clinical measurements relating to appellant's right and left upper extremities.

According to Figure 38, page 43, of the A.M.A., *Guides*, appellant has a 4 percent impairment of the right upper extremity due to lack of flexion and a 1 percent impairment due to lack of extension. According to Figure 41, page 44, she has a 3 percent impairment due to lack

² 5 U.S.C. §§ 8101-8193; § 8107(a).

³ 20 C.F.R. § 10.404.

⁴ *William Edwin Muir*, 27 ECAB 579 (1976) (this principle applies equally to body members that are not enumerated in the schedule provision as it read before the 1974 amendment and to organs that are not enumerated in the regulations promulgated pursuant to the 1974 amendment); *see also Thomas E. Montgomery*, 28 ECAB 294 (1977).

⁵ *E.g., Timothy J. McGuire*, 34 ECAB 189 (1982).

⁶ 5 U.S.C. § 8101(19).

⁷ *Rozella L. Skinner*, 37 ECAB 398 (1986).

of abduction and a 1 percent impairment due to lack of adduction. According to Table 44, page 45, appellant has no impairment due to lack of external rotation and a 1 percent impairment due to lack of internal rotation.

Because the relative value of each shoulder functional unit has been taken into consideration in the impairment charts, the impairment values for loss of each shoulder motion are added to determine the impairment of the upper extremity.⁸ Appellant therefore has a 10 percent impairment of the right upper extremity, for which she has received a schedule award.

Using the same figures or charts as above, the measurements reported by Dr. Johnson show that appellant has a 7 percent impairment of the left upper extremity due to lack of flexion and a 2 percent impairment due to lack of extension. She has a 4 percent impairment due to lack of abduction and a 1 percent impairment due to lack of adduction. Finally, appellant has a 1 percent impairment due to lack of external rotation and a 2 percent impairment due to lack of internal rotation. Adding these impairment values together, appellant has a 17 percent impairment of the left upper extremity, for which she has received a schedule award.

The Office properly considered the clinical measurements relating to appellant's left and right shoulder and properly compared these measurements to the appropriate figures or charts in the A.M.A., *Guides*.

The February 22, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
May 22, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁸ A.M.A., *Guides* 45.