

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SANDRA J. STAVELEY and U.S. POSTAL SERVICE,
REMOTE ENCODING CENTER, Nashua, NH

*Docket No. 02-543; Submitted on the Record;
Issued August 1, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
A. PETER KANJORSKI

The issues are: (1) whether appellant has greater than an 11 percent permanent loss of use of the right arm and a 13 percent permanent loss of use of the left arm; and (2) whether she received the appropriate amount of compensation pursuant to the schedule award issued by the Office of Workers' Compensation Programs on September 18, 2001.

On January 6, 1999 appellant, then a 50-year-old data conversion operator, filed a claim for pain and numbness of both hands and wrists that she attributed to repetitive movement and hyperextension of her fingers.

The Office accepted that appellant sustained bilateral carpal tunnel syndrome and authorized surgery for this condition.

On June 3, 1999 appellant underwent a right carpal tunnel release, a debridement of the triangular fibrocartilage complex and a synovectomy. On August 31, 1999 appellant underwent a left carpal tunnel release.

On September 26, 2000 appellant filed a claim for a schedule award.

On October 17, 2000 the Office referred appellant to Dr. Steven Serra, one of appellant's attending physicians, for an evaluation of the permanent impairment of her arms related to her carpal tunnel syndrome. In a report dated December 6, 2000, Dr. Serra reported the ranges of motion of appellant's wrists and indicated that there was no additional impairment of function of the arm due to weakness, atrophy, pain or discomfort. Dr. Serra concluded that appellant had a seven percent permanent impairment of the right arm and an eight percent permanent impairment of the left arm.

An Office district medical adviser reviewed Dr. Serra's report on August 6, 2001, and applying the tables of the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, to the ranges of motion reported by Dr. Serra, concluded

that appellant had an 11 percent permanent loss of use of the right arm and a 13 percent permanent loss of use of the left arm.

On September 18, 2001 the Office issued appellant a schedule award for an 11 percent permanent loss of use of the right arm and a 13 percent permanent loss of use of the left arm. This decision set forth the number of weeks of compensation as 524.16, and the period of the award as August 27, 2000 to February 2, 2002.

The Board finds that appellant has no greater than an 11 percent permanent loss of use of the right arm and a 13 percent permanent loss of use of the left arm.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

An Office district medical director correctly applied the tables of the fifth edition of the A.M.A., *Guides to the ranges of motion* reported by appellant's attending physician, Dr. Serra, to conclude that appellant had an 11 percent permanent loss of use of the right arm and a 13 percent permanent loss of use of the left arm. Dr. Serra indicated that there was no additional impairment of function of the arms due to weakness, atrophy, pain or discomfort.

There is no medical evidence that appellant has a greater impairment of her arms. Another of appellant's attending physicians, Dr. Barbara O'Dea, performed an evaluation of appellant's permanent impairment of the arms in a March 15, 2000 report. Dr. O'Dea concluded that appellant had a five percent permanent impairment of the left arm and a four percent permanent impairment of the right arm.

On appeal, appellant does not contend that the percentages of impairment awarded by the Office were incorrect, but questions why the number of weeks of compensation is listed as 524.16 and the period of the award is about one and one-half years. The answer is that the number of weeks listed on the Office's September 18, 2001 decision is incorrect and actually represents the number of days of compensation. The 524.16 weeks is equivalent to 74.88 weeks, which corresponds to the period of the award.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

The Act provides for 312 weeks of compensation for total loss of use of an arm,³ and for compensation for proportionate loss of use of a member for a permanent partial loss of use.⁴ Eleven percent of 312 weeks is 34.32 weeks, and 13 percent of 312 weeks is 40.56 weeks, which, when added together, equals the 74.88 weeks of compensation the Office awarded.

The September 18, 2001 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Dated, Washington, DC
August 1, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member

³ 5 U.S.C. § 8107(c)(1).

⁴ 5 U.S.C. § 8107(c)(19).