

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHARON E. BIELFELT and U.S. POSTAL SERVICE,
WESTLAKE BRANCH, Westlake, OH

*Docket No. 02-1695; Submitted on the Record;
Issued December 19, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant was not entitled to a schedule award.

On March 10, 1998 appellant, then a 48-year-old letter carrier, filed an occupational disease claim, assigned number A09-0438839, alleging that she first became aware of her bilateral carpal tunnel syndrome in February 1994. She stated that her condition was due to constant casing of mail, gripping bundles of mail, reaching for the top shelf of a case, reaching into sacks for flats and twisting her wrist. By letter dated April 13, 1998, the Office accepted appellant's claim for bilateral carpal tunnel syndrome and authorized right carpal tunnel release, which was performed on May 5, 1998.

Subsequent to the surgery, appellant returned to limited-duty work from May 19 through 31, 1998. Appellant was released to full-duty work on June 1, 1998.

On August 17, 1998 appellant filed another occupational disease claim assigned number 09-0443613, alleging that in the Spring of 1995 she realized that her heel spurs and fasciitis were due to walking routes ranging from 3 to over 10 miles for more than 12 years. By letter dated September 10, 1998, the Office accepted appellant's claim for bilateral plantar fasciitis and bilateral heel spurs. The Office authorized left and right plantar fasciotomy, which was performed on November 10, 1999.

On September 24, 1998 appellant filed an occupational disease claim assigned number 09-0444951, alleging that in January 1998, she first realized that her shoulder spur and undiagnosed left knee conditions were due to gradual increasing pain while working.¹ By decision dated December 21, 1998, the Office found the evidence of record insufficient to

¹ The Board notes that the Office doubled the claims assigned numbers A09-0443613, A09-0444951 and A09-0438839 into one case assigned number A09-0438839.

establish that appellant sustained an injury in the performance of duty. In a letter dated September 2, 1999, appellant requested reconsideration of the Office's decision. By letter dated September 20, 1999, the Office accepted appellant's claim for aggravation of right shoulder degenerative arthritis and aggravation of left knee chondromalacia. In a decision of the same date, the Office vacated its December 21, 1998 decision.

On October 10, 2000 appellant filed a claim for a schedule award concerning her employment injuries.

By letter dated December 27, 2000, the Office referred appellant along with medical records, a statement of accepted facts and a list of specific questions to Dr. George Hunter, a Board-certified orthopedic surgeon, for a second opinion examination. By letter of the same date, the Office advised Dr. Hunter of the referral.

Dr. Hunter submitted a January 16, 2001 report revealing a history of appellant's employment injuries. He reported the following findings:

"Examination of the right wrist and hand reveals a well-healed surgical scar over the volar aspect of the wrist. The Tinel['s] sign was negative. The active range of motion was 60 degrees of extension, with 60 degrees of flexion. There is 20 degrees of radial deviation and 30 degrees of ulnar deviation. The two-point discrimination throughout the hand is 5 millimeters. The grip strength is 25 kilograms.

"Examination of the left wrist and hand demonstrates that there is no evidence of obvious swelling or deformity. There is a well-healed surgical scar over the volar aspect of the wrist. The two-point discrimination throughout the entire hand is five millimeters. There is 25 kilograms of grip strength. The Tinel['s] sign was negative. The active range of motion was 60 degrees of extension, with 60 degrees of flexion. There was 20 degrees of radial deviation and 30 degrees of ulnar deviation.

"Examination of the right foot reveals that there is no evidence of swelling or deformity. There is pain on deep palpation over the plantar aspect of the heel. The subtalar motion is full. The active range of motion of the ankle is +10 degrees of extension to 30 degrees of flexion. [Appellant] demonstrates a normal gait.

"Examination of the left foot reveals no evidence of swelling or deformity. There is slight pain on deep palpation over the plantar aspect of the heel. There is a full range of motion of the subtalar motion. The active range of motion of the ankle is +10 degrees of extension to 30 degrees of flexion."

Dr. Hunter indicated a review of appellant's medical records and addressed the Office's questions. Specifically, he stated that appellant's subjective complaints of pain on deep palpation over the plantar surfaces of both feet in the area of the heels were consistent with her diagnoses of bilateral plantar fasciitis with bilateral heel spurs. Dr. Hunter further responded that there were subjective complaints regarding pain bilaterally in the hands and wrists with activity,

but the clinical findings did not confirm the extent of these subjective complaints that appellant had an ongoing active bilateral carpal tunnel syndrome. Based on his findings, Dr. Hunter opined that appellant had residuals of her employment injuries in the area of the plantar surface bilaterally of both heels. He stated that the cause of appellant's continued residuals of bilateral plantar fascia pain at that time could not be explained by the clinical findings or the record. Dr. Hunter noted that the clinical findings did not demonstrate any residuals of her bilateral carpal tunnel syndrome. He also opined that the residuals of appellant's pain in the area of the plantar surfaces of both heels would hinder her ability to perform her regular duties in the position of letter carrier, but that she could work in this position with restrictions. In his report, as well as, in an accompanying work restriction form, Dr. Hunter indicated that appellant could work eight hours a day with certain restrictions. He concluded that he had no recommendations for continued treatment at that time.

On March 12, 2001 the Office requested that an Office medical adviser review Dr. Hunter's report and determine the extent of appellant's permanent impairment of the upper and lower extremities based on the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*. On March 21, 2001 the Office medical adviser determined that appellant had a zero percent impairment of the upper and lower extremities based on tables and figures of the fifth edition of the A.M.A., *Guides*. Based on Dr. Hunter's data, the Office medical adviser determined that the range of motion findings for appellant's right upper extremity of 60 degrees extension and 60 degrees flexion constituted a 0 percent impairment based on Figure 16-28, page 476. The Office medical adviser further determined that the two-point discrimination was five millimeters, which was normal and constituted a zero percent impairment based on Table 16-5, page 447. The Office medical adviser also determined that appellant had a zero percent impairment of the left upper extremity indicating that it was the same as the right upper extremity with full range of motion and five millimeters two-point discrimination. Regarding appellant's condition of bilateral plantar fasciitis, the Office medical adviser stated that there were no tables available for this condition and Dr. Hunter provided some restrictions on walking and standing, but no scheduled impairment rating. Thus, the Office medical adviser concluded that appellant had a zero percent impairment according to Dr. Hunter.

By decision dated July 31, 2001, the Office denied appellant's claim for a schedule award. In an August 28, 2001 letter, appellant, through her attorney, requested an oral hearing before an Office representative.

In an April 23, 2002 decision, the hearing representative affirmed the Office's decision.

The Board finds that the Office properly determined that appellant was not entitled to a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act² and its implementing regulation³ 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

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (1999).

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 A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁴

In this case, the Office determined that appellant had a zero percent permanent impairment of both upper extremities and lower extremities by adopting the findings of the Office medical adviser, who determined the precise impairment rating by relying on Dr. Hunter's data. The Board finds that the Office medical adviser correctly applied the A.M.A., *Guides* in determining that appellant has a zero percent impairment of the upper and lower extremities. The Board notes that appellant did not provide any medical evidence establishing that she has any permanent impairment of her upper and lower extremities.

The April 23, 2002 and July 31, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
December 19, 2002

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ *Thomas P. Gauthier*, 34 ECAB 1060, 1063 (1983).