

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HERMAN M. MAASS and U.S. POSTAL SERVICE,
POST OFFICE, Burlington, IA

*Docket No. 01-1775; Submitted on the Record;
Issued May 17, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
DAVID S. GERSON

The issue is whether appellant's work-related bilateral cubital tunnel syndrome caused permanent impairment to his wrist, thereby entitling him to receive a schedule award.

On March 15, 1997 appellant, then a 58-year-old clerk, filed an occupational disease claim alleging that he sustained an injury to his wrists and thumbs on March 8, 1997 in the performance of duty. The Office of Workers' Compensation Programs accepted the condition of bilateral cubital tunnel syndrome.¹

In a report dated December 6, 1999, Dr. Keith W. Riggins, a Board-certified orthopedic surgeon, diagnosed bilateral carpometacarpal arthritis. He stated that appellant did not have cubital or carpal tunnel syndrome. Dr. Riggins opined that appellant had a 45 percent permanent impairment of each thumb due to restriction of range of motion which he stated was equal to a 19 percent permanent impairment of the whole person.

In a report dated December 6, 2000, the Office's district medical Director stated that the condition diagnosed by Dr. Riggins, in his December 6, 1999 report, arthritis of the thumbs, was not an accepted condition and not relevant to the determination of appellant's entitlement to a schedule award for any permanent impairment due to his accepted condition of bilateral cubital tunnel syndrome.

In a report dated January 9, 2001, Dr. Thomas J. Hughes, a Board-certified specialist in preventive medicine and an Office referral physician, provided detailed findings on examination of appellant's upper extremities and stated that he found no clinical evidence of cubital tunnel syndrome in either upper extremity. He found a zero percent permanent impairment of each

¹ Cubital tunnel syndrome involves compression of the ulnar nerve with pain and numbness along the ulnar aspect of the hand and forearm and weakness of the hand. *DORLAND'S ILLUSTRATED Medical Dictionary*, 1633 (27th ed. 1988).

extremity based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (4th ed. 1993) using sections 3.1I and 3.1k at pages 38 to 41 and 46 to 57.

In a report dated January 26, 2002, the district medical Director stated that Dr. Hughes found no range of motion restrictions, weakness or pain and correctly determined that appellant had a zero percent permanent impairment of the upper extremities based on the A.M.A., *Guides*.

By decision dated March 26, 2001, the Office denied appellant's claim for a schedule award on the grounds that the medical evidence of record did not establish that he sustained any ratable impairment to his hands.

The Board finds that appellant had no permanent impairment causally related to his bilateral cubital tunnel syndrome.

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 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.

In a report dated December 6, 1999, Dr. Riggins stated that appellant did not have cubital tunnel syndrome. He opined that appellant had a 45 percent permanent impairment of each thumb due to restriction of range of motion resulting from arthritis, equaling a 19 percent permanent impairment of the whole person. Because he found that appellant had no residual impairment due to his accepted employment injury, bilateral cubital tunnel syndrome, and his impairment was due to his nonwork-related arthritis, this report does not establish that appellant was entitled to a schedule award based on his employment injury.

In a report dated January 9, 2001, Dr. Hughes provided detailed findings on examination of appellant's upper extremities and found no clinical evidence of cubital tunnel syndrome in either upper extremity. He found a zero percent permanent impairment of each extremity based on the A.M.A., *Guides*, (4th ed.).

As there is no medical evidence of record establishing that appellant had any permanent impairment due to his employment-related cubital tunnel syndrome, the Office properly denied his claim for a schedule award.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

The decision of the Office of Workers' Compensation Programs dated March 26, 2001 is affirmed.

Dated, Washington, DC
May 17, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

David S. Gerson
Alternate Member