U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BOBBIE N. WALTON and DEPARTMENT OF DEFENSE, DEFENSE LOGISTICS AGENCY, DEFENSE DISTRIBUTION DEPOT, HILL AIR FORCE BASE, Ogden, UT

Docket No. 02-1107; Submitted on the Record;
Issued February 4, 2003

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether appellant has more than a 39 percent permanent impairment of the right arm.

On February 18, 2000 appellant, then a 52-year-old materials examiner and identifier, slipped and fell on ice on the employing establishment's parking lot, sustaining fractures of the distal end of the radius and the ulnar styloid. She stopped working that day and underwent surgery on February 19, 2000 for open reduction of the fracture. The Office of Workers' Compensation Programs accepted appellant's claim for a fracture of the right wrist. She received continuation of pay for the period February 19 through April 4, 2000. Appellant used sick and annual leave from April 5 to May 14, 2000. The Office began payment of compensation effective May 15, 2000. Appellant returned to work on June 5, 2000, for four hours a day. The Office paid compensation for the hours appellant did not work.

In a November 17, 2000 report, Dr. Allisyn Okawa, a Board-certified plastic surgeon, indicated that appellant had stiffness in her hand due to her employment injury as well as diabetes. He noted that appellant had a decreased range of motion in the fingers, hand and wrist as well as decreased strength because of the inability to bring her fingers together and grip. Dr. Okawa indicated that appellant's right wrist ranges of motion were 70 degrees pronation, which equaled a 1 percent impairment of the right arm; 36 degrees supination, which equaled a 2 percent impairment; 40 degrees extension, which equaled a 4 percent impairment and 40 degrees flexion, which equaled a 3 percent impairment. She reported that appellant had 14 degrees radial deviation and 6 degrees ulnar radiation, which equaled a 3 percent impairment. Dr. Okawa stated that appellant had a total of 16 percent permanent impairment due to loss of motion in the wrist.

Dr. Okawa found that the range of motion of the right index metaphalangeal joint was from 2 degrees to 77 degrees, which equaled a 5 percent impairment of the finger for extension and 7 percent impairment for flexion. The range of motion of the index proximal interphalangeal

joint range was -40 degrees to -89 degrees, which equaled a 14 percent impairment of the finger for extension and 6 percent impairment for flexion. The range of motion of the distal interphalangeal joint was -2 degrees to 39 degrees, which equaled no impairment for extension and 15 percent for flexion. Dr. Okawa concluded that appellant, therefore, had a 47 percent permanent impairment of the index finger or 9 percent impairment of the hand. She reported that the range of motion of the metaphalangeal joint of middle finger was 3 degrees to 81 degrees, which equaled a 6 percent impairment of the finger for extension and a 6 percent impairment for flexion. The range of motion for the middle proximal interphalangeal was -44 percent to 85 percent, which equaled a 19 percent impairment for extension and a 9 percent impairment for flexion. The range of motion of the middle distal interphalangeal joint was -16 degrees to 53 degrees, which equaled a 3 percent impairment for extension and a 9 percent impairment for flexion. Dr. Okawa concluded that appellant had a 52 percent permanent impairment of the finger which equaled a 10 percent impairment of the hand.

The range of motion of the metaphalangeal joint of appellant's ring finger was -7 degrees to 81 degrees, which equaled a 6 percent impairment for extension and a 6 percent impairment for flexion. The range of motion of the proximal interphalangeal joint of the ring finger was -45 degrees to 102 degrees, which equaled a 20 percent impairment for extension but no loss of flexion. The distal interphalangeal joint had ranges of motion of 6 degrees to 43 degrees, which equaled a 1 percent impairment for extension and a 14 percent impairment for flexion. Dr. Okawa found a 47 percent impairment of the ring finger or 5 percent impairment to the hand.

The range of motion form the metaphalangeal joint of the little finger was 6 to 76 degrees, which equaled a 4 percent impairment for extension and an 8 percent impairment for flexion. The range of motion of the proximal interphalangeal joint was -51 degrees to 88 degrees, which equaled a 26 percent impairment for extension and a 7 percent impairment for flexion. The range of motion of the distal interphalangeal joint of the small finger was -6 degrees to 53 degrees, which equaled a 1 percent impairment for extension and a 9 percent impairment for flexion. Dr. Okawa found a 47 percent permanent impairment of the small finger or 5 percent impairment of the hand.

Appellant's thumb had a range of motion of -5 to 38 degrees in the metaphalangeal joint, which equaled a .5 percent permanent impairment of the thumb for extension and a 2 percent impairment for flexion. The interphalangeal joint of the thumb had a range of motion of 5 degrees to 41 degrees, which equaled a 5 percent impairment for extension and a 3 percent impairment for flexion. Dr. Okawa stated that the thumb had 50 degrees abduction, which showed no impairment; opposition of 7 centimeters, which equaled a 1 percent impairment, and adduction of 4 centimeters, which equaled a 4 percent impairment. She found appellant had an 11 percent impairment of the thumb or 4 percent permanent impairment of the hand. Dr. Okawa combined the ratings for permanent impairment of the fingers and estimated that appellant had a 33 percent permanent impairment of the hand or a 30 percent permanent impairment of the arm. She added the 30 percent permanent impairment of the arm due to the hand to the 16 percent permanent impairment of the arm due to the loss of motion in the wrist and concluded that appellant had a total of 46 percent permanent impairment of the arm.

The Office medical adviser reviewed Dr. Okawa's report and applied the ranges of motion findings provided by Dr. Okawa. In the right wrist, the Office medical adviser stated that

appellant had 1 percent impairment for loss of pronation, 2 percent impairment for loss of supination, 4 percent impairment for loss of extension, 3 percent impairment for loss of flexion, 1 percent impairment for loss of radial deviation and 4 percent impairment for loss of ulnar deviation, which totaled 15 percent impairment to the arm. In the index finger, appellant had a 11 percent impairment to the metaphalangeal joint, 20 percent impairment of the proximal interphalangeal joint and a 15 percent impairment of the distal interphalangeal joint, which totaled 46 percent impairment of the index finger, or 9 percent impairment of the hand or 8 percent impairment to the arm. In the middle finger, the Office medical adviser found 11 percent impairment of the metaphalangeal joint, 28 percent impairment of the proximal interphalangeal joint and 12 percent impairment of the distal interphalangeal joint, which totaled a 51 percent impairment of the finger or 10 percent impairment to the hand and 9 percent impairment to the arm. In appellant's ring finger, the Office medical adviser found 12 percent impairment to the metaphalangeal joint, 20 percent impairment to the proximal interphalangeal joint and 15 percent impairment to the distal interphalangeal joint, which totaled 47 percent impairment of the ring finger or 5 percent impairment of the hand and 5 percent impairment of the arm. In the little finger, he found that appellant had 12 percent impairment to the metaphalangeal joint, 33 percent impairment of the proximal interphalangeal joint and 10 percent impairment of the distal interphalangeal joint which totaled 55 percent impairment of the finger or 6 percent impairment to the hand or 5 percent impairment of the arm. In appellant's thumb, the Office medical adviser found that appellant had a one percent impairment due to loss of extension in the metaphalangeal joint, two percent impairment for loss of flexion, one percent impairment for loss of extension, three percent impairment for loss of flexion, one percent impairment for loss of opposition and four percent impairment for loss of adduction. He found that appellant had 12 percent impairment of the thumb, which equaled 5 percent impairment of the hand or a 5 percent impairment of the arm. The Office medical adviser combined the impairment ratings of the hand due to the impairments of the fingers to total 31 percent impairment of the hand or 28 percent impairment to the arm. He combined the 28 percent impairment rating for the arm due to appellant's fingers with the 15 percent impairment rating for the arm due to the wrist to calculate a total 39 percent impairment of the arm.

In a July 10, 2001 decision, the Office issued a schedule award for a 39 percent impairment of the right arm.

The Board finds that appellant has no more than a 31 percent impairment of the right arm for which he received a schedule award.

The schedule award provision of the Federal Employees' Compensation Act[1] and its implementing regulation[2] 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*

[1] 5 U.S.C. § 8107.

[2] 20 C.F.R. § 10.404 (1999).

Evaluation of Permanent Impairment[3] has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

Dr. Okawa and the Office medical adviser, working from the same measurements of appellant's loss of range of motion, reached differences in only a few of the impairment calculations for appellant's right arm. The physicians agreed on the impairment ratings for loss of pronation, supination, flexion and extension of the wrist.[4] Dr. Okawa noted appellant had a three percent impairment for loss of ulnar deviation and a three percent impairment for loss of radial deviation. However, the Office medical adviser properly applied the A.M.A., *Guides* to find that appellant had a four percent impairment for loss of ulnar deviation and a one percent impairment for loss of radial deviation.[5] The Office medical adviser, therefore, properly determined that appellant had 15 percent impairment to the right arm due to loss of motion in the wrist.

In appellant's fingers, Dr. Okawa and the Office medical adviser agreed that appellant had a 47 percent impairment of both the ring and little fingers or 5 percent impairment of the hand for each finger. Dr. Okawa concluded that appellant had a 47 percent impairment of the index finger, while the Office medical adviser calculated that appellant had a 46 percent impairment of the same finger. However, both of these totals contribute to 9 percent impairment of the hand. Dr. Okawa found that appellant had a 52 percent impairment of the middle finger while the Office medical adviser found appellant had 51 percent impairment of the middle finger. Again both of these equals 10 percent permanent impairment of the hand. Dr. Okawa calculated that appellant had an 11 percent impairment of the thumb while the Office medical adviser found that appellant had 12 percent impairment of the thumb. Dr. Okawa, therefore, found appellant had a four percent permanent impairment of the hand due to the impairment of the thumb while the Office medical adviser found that appellant had a 5 percent permanent impairment. The Office medical adviser properly calculated the permanent impairment of the thumb because Dr. Okawa assigned a five percent impairment for loss of extension in the joints of the thumb, while the Office medical adviser properly rounded up to a one percent permanent impairment for loss of extension in the joints of the thumb. The Office medical adviser properly applied the Combined Values Table to find 31 percent impairment of the hand due to the loss of range of motion contributed by the fingers. Dr. Okawa improperly found that appellant had a 33 percent impairment of the hand due to the loss of finger range of motion. The Office medical adviser properly converted the 31 percent impairment of the hand to 28 percent impairment to the arm.[6] He combined the impairment due to the hand with the impairment due to loss of motion of the wrist, to find a total 39 percent impairment of the upper extremity due to loss of motion.

[3] (5th ed. 2001).

[4] Figures 16-28 of the A.M.A., *Guides*, page 467.

[5] Figure 16-31 of the A.M.A., *Guides*, page 469

[6] A.M.A., *Guides*, Table 16-2, page 439.

The decision of the Office of Workers' Compensation Programs, dated July 10, 2001, is affirmed.

Dated, Washington, DC
February 4, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member