

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARK E. HIGGINS and U.S. POSTAL SERVICE,
POST OFFICE, Reno, NV

*Docket No. 03-514; Submitted on the Record;
Issued June 2, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he has greater than a six percent permanent impairment of his right upper extremity and a two percent permanent impairment of his left upper extremity, for which he received a schedule award.

On December 3, 2001 appellant, a 41-year-old letter carrier, filed a claim for benefits, alleging that he had developed a bilateral carpal tunnel syndrome causally related to factors of his employment. The Office of Workers' Compensation Programs accepted the claim for bilateral wrist overuse syndrome and carpal tunnel syndrome. Appellant underwent right carpal tunnel release surgery on March 13, 2002 and left carpal tunnel release surgery on April 10, 2002.

On September 12, 2002 appellant filed a Form CA-7 claim for a schedule award based on the partial loss of use of his right and left upper extremities, stemming from his accepted bilateral carpal tunnel condition.

In a report and impairment evaluation dated October 11, 2002, Dr. Moola P. Reddy, Board-certified in physical medicine and rehabilitation, examined appellant and calculated that he had sustained a loss of range of motion of 20 degrees, right dorsiflexion, 10 degrees left dorsiflexion; and 10 degrees loss of radial deviation on the right side.

In a memorandum/impairment worksheet dated November 3, 2002, the Office medical adviser reviewed Dr. Reddy's findings and measurements and calculated that appellant had a six percent impairment for the right upper extremity and a two percent permanent impairment of the left upper extremity pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001). The Office medical adviser stated that, with regard to the right wrist, appellant had a four percent impairment due to loss of extension pursuant to Figure 16-28, page 467 and a two percent impairment due to loss of radial deviation pursuant to Figure 16-31 at page 469 of the A.M.A., *Guides*. Regarding the left wrist, the Office medical adviser determined that appellant had a two percent impairment due to loss of extension pursuant to

Figure 16-28 at page 467 and a two percent impairment due to loss of radial deviation pursuant to Figure 16-31 at page 469, for a total two percent impairment.

By decision dated December 3, 2002, the Office granted appellant a schedule award for a 6 percent permanent impairment of his right upper extremity and a 2 percent permanent impairment of his left upper extremity for the period from October 11, 2002 to April 3, 2003 for a total of 24.96 weeks of compensation.

The Board finds that appellant has no more than a six percent permanent impairment of his right upper extremity and a two percent permanent impairment of his left upper extremity, for which he received a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act¹ set forth the number of weeks of compensation to be paid for permanent loss, or loss of use of the members of the body listed in the schedule. Where the loss of use is less than 100 percent, the amount of compensation is paid in proportion to the percentage loss of use.² However, the Act does not specify the manner in which the percentage of loss of use of a member is to be determined. For consistent results and to ensure equal justice under the law to all claimants, the Office has adopted the A.M.A., *Guides* (5th ed. 2001) as the standard to be used for evaluating schedule losses.³

In this case, the Office determined that appellant had a six percent permanent impairment of his right upper extremity and a two percent permanent impairment of his left upper extremity based on the findings of the Office medical adviser, who took Dr. Reddy's findings of loss of range of motion and applied them to the applicable tables and figures of the A.M.A., *Guides* to arrive at the appropriate impairment rating.

The Board concludes that the Office medical adviser correctly applied the A.M.A., *Guides* in determining that appellant has no more than a six percent permanent impairment of his right upper extremity and a two percent permanent impairment of his left upper extremity, for which he has received a schedule award from the Office and that appellant has failed to provide probative, supportable medical evidence that he has greater than the eight percent bilateral impairment already awarded.

¹ 5 U.S.C. §§ 8101-8193; *see* 5 U.S.C. § 8107(a).

² 5 U.S.C. § 8107(a)(19).

³ 20 C.F.R. § 10.404.

The decision of the Office of Workers' Compensation Programs dated December 3, 2002 is hereby affirmed.

Dated, Washington, DC
June 2, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member