

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DUNCAN E. HACKWORTH and U.S. POSTAL SERVICE,
POST OFFICE, Lincoln, NE

*Docket No. 03-1701; Submitted on the Record;
Issued October 1, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has sustained any permanent impairment to a schedule member of his body causally related to his accepted condition of bilateral carpal tunnel syndrome, thereby entitling him to a schedule award under 5 U.S.C. § 8107.

On April 21, 2000 appellant, a 41-year-old mailhandler, filed a Form CA-2 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 carpal tunnel syndrome and authorized carpal surgery for both wrists. Dr. Donald J. Walla, a Board-certified orthopedic surgeon and appellant's treating physician, performed right carpal tunnel release surgery on August 24, 2000 and left carpal tunnel release surgery on September 14, 2000.

On November 13, 2002 appellant filed a Form CA-7 claim for a schedule award based on the loss of use of his right and left upper extremities, stemming from his accepted bilateral carpal tunnel condition.

In a report dated October 7, 2002, received by the Office on November 25, 2002, Dr. Walla stated that based on his October 4, 2002 examination appellant had reached maximum medical improvement and had a 10 percent impairment of the right upper extremity and a 10 percent impairment of the left upper extremity.

In a report dated January 31, 2003, an Office medical adviser found that Dr. Walla's impairment rating was not valid because it was not rendered pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) fifth edition. The Office medical adviser stated that appellant would be referred to a specialist who would issue a report and impairment evaluation in accordance with the A.M.A., *Guides*.

On February 19, 2003 the Office scheduled appellant for an examination and impairment evaluation with Dr. Floyd H. Pohlman, a Board-certified orthopedic surgeon. In a report and

impairment evaluation dated May 13, 2003, Dr. Pohlman concluded that appellant had a zero percent impairment pursuant to the A.M.A., *Guides*. Dr. Pohlman found that appellant had no neurological deficit in his fingers, no sensory or neurological deficits in his wrists and no loss of grip strength. With regard to the range of motion in appellant's left wrist, he calculated 75 degrees of flexion, 70 degrees of extension, 30 degrees of radial deviation and 35 degrees of ulnar deviation. Regarding the right wrist, he calculated 80 degrees of flexion, 60 degrees of extension, 40 degrees of ulnar deviation and 25 degrees of radial deviation. Based on these findings Dr. Pohlman determined that appellant had no ratable impairment in either hand stemming from his accepted bilateral carpal tunnel condition. He found that appellant reached maximum medical improvement as of the date of his examination.

In a memorandum/impairment worksheet dated May 19, 2003, the Office medical adviser reviewed Dr. Pohlman's findings and measurements and calculated that appellant had a zero percent impairment for the right upper extremity and a zero percent permanent of the left upper extremity pursuant to the A.M.A., *Guides*.

By decision dated May 21, 2003, the Office denied appellant's claim for a schedule award. The Office stated that the medical evidence of record did not support appellant's claim that he had sustained an employment-related permanent impairment.

The Board finds that appellant has not sustained a permanent impairment to a schedule member of his body causally related to his accepted bilateral carpal syndrome, thereby entitling him to a schedule award under 5 U.S.C. § 8107.

The schedule award provision 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* fifth edition as the standard to be used for evaluating schedule losses.

An attending physician, Dr. Walla, opined that appellant had a 10 percent impairment to both wrists. He did not, however, explain how he calculated the impairment or refer to the A.M.A., *Guides*. His report is, therefore, of diminished probative value.

Dr. Pohlman's May 13, 2003 report found that appellant had a zero percent impairment pursuant to the A.M.A., *Guides* based on findings of no neurological deficit in his fingers, no sensory or neurological deficits in his wrists, no loss of grip strength and no loss of range of motion in his wrists. The Board notes that impairments for wrist range of motion are determined by application of Figure 16-28 (loss of extension and flexion) and Figure 16-31 (radial and ulnar

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

² 5 U.S.C. § 8107(c)(19).

deviation).³ Based on the range of motion results provided by Dr. Pohlman, appellant did not have a ratable impairment for loss of motion in the right or left wrist. The Office medical adviser concurred that appellant had a zero percent impairment rating.

As there is no probative medical evidence establishing that appellant sustained any permanent impairment of a schedule member, the Office properly found that appellant was not entitled to a schedule award due to his accepted bilateral carpal tunnel syndrome.

The decision of the Office of Workers' Compensation Programs dated May 21, 2003 is hereby affirmed.

Dated, Washington, DC
October 1, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

³ A.M.A., *Guides*, 467, 469.