

**United States Department of Labor
Employees' Compensation Appeals Board**

KIMBERLY K. TREVINO, Appellant

and

**U.S. POSTAL SERVICE, LONE STAR
STATION, Amarillo, TX, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 04-1404
Issued: September 30, 2004**

Appearances:
Kimberly K. Trevino, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On May 4, 2004 appellant filed a timely appeal of decisions of the Office of Workers' Compensation Programs dated March 3, 2004 and September 24, 2003 finding that she was not entitled to a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the schedule award issue in this case.

ISSUE

The issue is whether appellant has a permanent impairment of her hands or arms related to her accepted condition of bilateral wrist tendinitis.

FACTUAL HISTORY

On April 7, 2001 appellant, then a 36-year-old distribution clerk, filed an occupational disease claim for compensation for repetitive occupational stress injury to both hands, chronic mild fasciitis and carpal tunnel syndrome. The Office accepted that appellant sustained bilateral wrist tendinitis in the performance of duty.

On August 20, 2003 appellant filed a claim for a schedule award. She submitted a March 6, 2003 report from Dr. Grace Stringfellow, a Board-certified physiatrist, titled "Impairment Rating." Dr. Stringfellow noted appellant's history of employment with the employing establishment for 17.5 years and of a gradual onset of bilateral hand and wrist pain. She stated that an electrodiagnostic study of appellant's upper extremities on October 8, 2001 was consistent with very mild right ulnar neuropathy at the elbow and cervical radiculopathy, but showed no evidence of median neuropathy. Examination by Dr. Stringfellow revealed normal strength in the upper extremities on manual muscle testing, normal sensation to pinprick and light touch in the upper extremities, brisk symmetrical reflexes, grip strength on the Jamar dynamometer averaging 25.6 kilograms on the right and 22.6 on the left, and full range of motion of the wrists, listed as, on the right and left respectively, 70 and 76 degrees of extension, 70 and 76 degrees of flexion, 38 and 32 degrees of ulnar deviation and 24 and 24 degrees of radial deviation.¹ Dr. Stringfellow stated that appellant had reached maximum medical improvement, and that, applying the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), she had an 11 percent impairment of the right arm and a 10 percent impairment of the left arm.

An Office medical adviser reviewed Dr. Stringfellow's report on September 10, 2003 and stated that it was not probative due to the lack of explanation as to how the percentages of impairment were derived. This Office medical adviser noted that the A.M.A., *Guides* state, at page 507, that tendinitis is not ratable unless some other factors must be considered, that other factors were not present and that appellant could not qualify for an impairment based on tendinitis. He concluded, therefore, that the medical evidence did not support any impairment of the upper extremities resulting from the employment injury.

By decision dated September 24, 2003, the Office found that appellant was not entitled to a schedule award.

By letter dated October 9, 2003, appellant requested a review of the written record. By decision dated March 3, 2004, an Office hearing representative found that appellant had no permanent impairment.

LEGAL PRECEDENT

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

¹ Dr. Stringfellow also listed ranges of motion for appellant's elbows and shoulders, but these are not relevant, as only a wrist condition was accepted by the Office.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (2003).

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.

ANALYSIS

Dr. Stringfellow's March 6, 2003 report does not establish any permanent impairment related to appellant's accepted condition of bilateral wrist tendinitis. As pointed out by an Office medical adviser, the A.M.A., *Guides*, at page 507, state that tendinitis is not given a permanent impairment rating unless there is some other factor that must be considered. The section on tendinitis continues that impairment can be given on the basis of weakness of grip strength if an individual has had tendon rupture or has undergone surgical release of the flexor or extensor origins or medial or lateral epicondylitis, or has excision of the epicondyle, none of which apply to appellant. The ranges of motion listed by Dr. Stringfellow for appellant's wrists are all greater than the normal ranges listed in the applicable section of the A.M.A., *Guides*. Section 16.4g states that normal range of wrist motion is from 60 degrees extension to 60 degrees flexion, and from 20 degrees radial deviation to 30 degrees of ulnar deviation does not constitute an impairment.⁴ Despite her conclusion that appellant has an 11 percent impairment of the right arm and a 10 percent impairment of the left arm, Dr. Stringfellow's findings on examination do not support that appellant has any permanent impairment of the hands or arms related to her accepted condition of bilateral wrist tendinitis.

CONCLUSION

The evidence submitted by appellant does not show a permanent impairment of the hands or arms related to her accepted condition.

⁴ See A.M.A., *Guides* 469, Figure 16-31.

ORDER

IT IS HEREBY ORDERED THAT the March 3, 2004 and September 24, 2003 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 30, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member