

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

HERBERT D. JONES, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
St. Louis, MO, Employer**

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**Docket No. 06-486
Issued: April 20, 2006**

Appearances:
Herbert D. Jones, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On December 27, 2005 appellant filed a timely appeal from the October 12, 2005 merit decision of the Office of Workers' Compensation Programs, which awarded compensation for permanent impairment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the schedule award.

ISSUE

The issue is whether appellant has more than a five percent permanent impairment of his right upper extremity.

FACTUAL HISTORY

On October 16, 1996 appellant, then a 31-year-old clerk, filed a claim alleging that the cyst on his right hand near his wrist was a result of keying on a 10-key calculator at work. He did not stop work. The Office accepted his claim for a ganglion cyst on the right wrist and authorized surgery. Appellant underwent an excision of the ganglion cyst on December 30, 1996. He was released to return to work on January 14, 1997.

On February 3, 2004 appellant filed a claim for a schedule award. His surgeon, Dr. Kosit Prieb, evaluated the permanent impairment. In a report received December 22, 2004, Dr. Prieb noted no sensory loss or loss of motion in any of the fingers of the right hand. He recorded 40 degrees flexion and 50 degrees extension in the right wrist. There was no radial or ulnar deviation. Dr. Prieb determined that appellant had a five percent impairment of the right upper extremity, or a three percent impairment of the whole person.

On March 18, 2005 an Office medical adviser reviewed Dr. Krieb's findings and confirmed that appellant had a five percent impairment of the right upper extremity due to loss of wrist motion.

In a decision dated October 12, 2005, the Office issued a schedule award for a five percent permanent impairment of appellant's right upper extremity.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.²

ANALYSIS

The normal range of wrist motion is from 60 degrees flexion to 60 degrees extension.³ Dr. Krieb, appellant's surgeon, reported 40 and 50 degrees respectively. According to Figure 16-28, page 467, of the A.M.A., *Guides*, 40 degrees flexion represents a three percent impairment of the upper extremity. Fifty degrees extension represents a two percent impairment. Total upper extremity impairment contributed by decreased wrist flexion and extension is therefore five percent, as Dr. Krieb well explained. There was no radial or ulnar deviation, no sensory involvement of the fingers or any other clinical findings that would establish greater impairment.

Section 8107 of the Act provides a maximum of 312 weeks of compensation for the complete loss of an arm, as with amputation.⁴ Partial loss is compensated proportionately.⁵ This means a 5 percent impairment of the right upper extremity is 5 percent of 312 weeks, or 15.6 weeks of compensation, which the Office awarded. Although the impairment is permanent,

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999). Effective February 1, 2001 the Office began using the A.M.A., *Guides* (5th ed. 2001). FECA Bulletin No. 01-05 (issued January 29, 2001).

³ A.M.A., *Guides* 467.

⁴ 5 U.S.C. § 8107(c)(1). There is no provision for "whole body" impairments.

⁵ *Id.* at § 8107(c)(19).

appellant may not receive more under the schedule award unless there is medical evidence showing greater impairment.

The employing establishment confirmed appellant's weekly pay, including night differential and Sunday premium, as of December 30, 1996, the date of his surgery and the date disability began.⁶ The Office applied the proper compensation rate for an employee with dependents.⁷ Multiplying the pay rate for compensation purposes, \$473.30, by the number of weeks of compensation, 15.6, gives a total payment of \$7,383.48, which is \$54.13 less than the Office awarded. Appellant is not entitled to more than the Office awarded and the Board will affirm the Office's October 12, 2005 decision.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the October 12, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 20, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁶ 5 U.S.C. § 8101(4) (compensation is based on the pay at the time of injury, or the pay at the time disability begins, or the pay at the time compensable disability recurs, if the recurrence begins more than six months after the injured employee resumes regular full-time employment with the United States, whichever is greater).

⁷ *Id.* at § 8110 (augmented compensation for dependents).