

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

KATHY M. ABDALLA, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Fort Worth, TX, Employer**

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**Docket No. 06-303
Issued: June 5, 2006**

Appearances:
Kathy M. Abdalla, 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 November 23, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated November 8, 2005, finding an 11 percent permanent impairment of the right upper extremity. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the schedule award.

ISSUE

The issue is whether appellant has more than an 11 percent impairment to the right upper extremity for which she received a schedule award.

FACTUAL HISTORY

On June 8, 2000 appellant, then a 40-year-old carrier/clerk, filed a claim for occupational disease claim, asserting that she developed bilateral carpal tunnel syndrome and bilateral tennis elbow as a result of repetitious activities she performed with her hands while in the performance of her federal duties. On August 23, 2000 the Office accepted appellant's claim for the condition of mild right carpal tunnel syndrome. Appellant underwent a right carpal tunnel release on

November 18, 2002 performed by her treating osteopath, Dr. Myron L. Glickfeld. Appellant accepted a limited-duty position on May 1, 2003.

In a report dated August 19, 2004, Dr. Glickfeld noted that muscle testing of the upper extremity revealed no gross motor deficiencies and deep tendon reflexes were normal. Right wrist range of motion on flexion was 50 degrees for 2 percent impairment; extension of 40 degrees for 4 percent, radial deviation of 8 degrees for 2 percent, and ulnar deviation of 23 degrees for 1 percent impairment. Right elbow range of motion was flexion at 125 degrees for 1 percent impairment, extension of 2 degrees for 0 percent, pronation of 70 degrees for 0 percent and supination of 80 degrees for 1 percent impairment. Dr. Glickfeld stated that appellant had a negative atrophy, Phalen's sign, and ligament laxity of the right elbow; a positive Tinel's sign, tenderness to palpation of the right radial head, and slight decreased range of motion of the right elbow, and diagnosed carpal tunnel syndrome and ulnar neuritis. He stated that appellant reached maximum medical improvement on April 15, 2003 and according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5th ed. 2001) and had an 11 percent impairment of the upper extremity.

On December 16, 2004 appellant filed a claim for a schedule award. On June 23, 2005 an Office medical adviser reviewed Dr. Glickfeld's evaluation and concurred with his findings that appellant had an 11 percent impairment of the right upper extremity.

By decision dated November 8, 2005, the Office granted appellant a schedule award for an 11 percent impairment of the right upper extremity. The period of the award ran from August 19, 2004 to April 16, 2005 for a total of 34.32 weeks of compensation.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence.² Under section 8107 of the Act³ and section 10.404 of the implementing federal regulation,⁴ schedule awards are payable for permanent impairment of specified body members, functions or organs. However, the Act does not specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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 Office has adopted the A.M.A., *Guides*, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁵

¹ 5 U.S.C. §§ 8101-8193.

² *Gary J. Watling*, 52 ECAB 278 (2001).

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

⁵ *Willie C. Howard*, 55 ECAB ____ (Docket No. 04-342 & 04-464, issued May 27, 2004).

ANALYSIS

In this case, both Dr. Glickfeld and the Office medical adviser reported that appellant had 11 percent impairment to her right upper extremity. The Office medical adviser applied the findings of Dr. Glickfeld to the fifth edition of the A.M.A., *Guides* to find that appellant had a total impairment of 11 percent to her right upper extremity for loss of range of motion. This was based on right wrist range of motion findings of 2 percent for 50 degrees of flexion and 4 percent for 40 degrees of extension;⁶ 2 percent for 8 degrees of radial deviation and 1 percent for 23 degrees of ulnar deviation⁷ for a total 9 percent impairment.⁸ The findings for right elbow range of motion were 1 percent for 125 degrees of flexion, 0 percent for plus 2 degrees of extension,⁹ 0 percent for 80 degrees of supination, and 1 percent for 70 degrees of pronation¹⁰ for total 2 percent impairment.¹¹ When 9 percent impairment due to loss of motion in the wrist is combined, under the Combined Values Chart,¹² with 2 percent impairment for loss of motion in the elbow, the total award is 11 percent for the right upper extremity.

There is no other medical evidence of record, based on a correct application of the A.M.A., *Guides*, to establish that appellant has more than an 11 percent permanent impairment of the right upper extremity for which she received a schedule award. Accordingly, the Board finds that the Office followed standardized procedures for determining the extent of appellant's permanent impairment and properly determined that she had no more than an 11 percent permanent impairment of the right upper extremity.

CONCLUSION

The Board finds that appellant has no more than an 11 percent impairment of the right upper extremity.

⁶ A.M.A., *Guides* 467, Figure 16-28. The Office medical adviser noted Figure 16-18 but that figure addresses thumb adduction. Figure 16-18, found on page 467, addresses wrist extension and flexion.

⁷ *Id.* at 469, Figure 16-31.

⁸ *Id.* at 466, paragraph 16.4g.

⁹ *Id.* at 472, Figure 16-34.

¹⁰ *Id.* at 474, Figure 16-37.

¹¹ *Id.* at 470, paragraph 16.4h.

¹² *Id.* at 604.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 8, 2005 be affirmed.

Issued: June 5, 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