

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

K.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Allison Park, PA, Employer**

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

**Docket No. 06-2058
Issued: April 6, 2007**

Appearances:

*Jeffrey P. Zeelander, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 6, 2006 appellant filed a timely appeal from an Office of Workers' Compensation Programs' schedule award decision dated August 25, 2006. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this schedule award decision.

ISSUE

The issue is whether appellant has more than a six percent permanent impairment to her right upper extremity.

FACTUAL HISTORY

Appellant, a 53-year-old part-time flexible clerk, broke two bones in her right arm on July 24, 2002 when her right arm was pinned by a postal container which came off of a truck. She filed a claim for benefits, which the Office accepted for fracture of the right wrist. The Office authorized surgery for arthroscopy of the right wrist, debridement of radius and open hemiresection arthroplasty of the distal radio-ulnar joint with resection of the distal ulna and stabilization of the distal ulna; the procedure was performed by Dr. Joseph E. Imbriglia, Board-

certified in orthopedic surgery, on November 20, 2002. On July 9, 2003 Dr. Imbriglia performed a resection of the right distal ulna, a right extensor carpi ulnaris tenodesis for reconstruction of the ulnar collateral ligament and a pronator quadratus pedicle flap for interposition between radius and ulna.

On November 12, 2004 appellant filed a Form CA-7 claim for a schedule award based on a partial loss of use of her right upper extremity.

In a report dated January 12, 2005, Dr. Imbriglia found that appellant had a 25 percent impairment for loss of use of her right upper extremity pursuant to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) fifth edition. He stated:

“[Appellant] does have restriction of motion. She has 50 degrees of palmar flexion and 50 degrees of dorsiflexion. [Appellant] has 60 degrees of supination and 70 degrees of pronation. These are all restricted as a result of her accident. She also has, as a result of the fracture of the wrist and the necessary surgeries, decreased grip strength.... [Appellant] also complains of pain with flexion, extension and rotation of her wrist.... As a result of the combination of the fracture of the wrist, loss of motion, resection arthroplasty of the distal radio-ulnar joint, pain and weakness I would estimate that she has lost 25 percent use of the upper extremity for all practical intents and purposes. This is due to resection arthroplasty of the ulnar head, [T]able 16-27. [Appellant] has loss of motion in the wrist, [T]able 16-27 and loss of strength.”

In a memorandum/impairment evaluation dated February 24, 2005, an Office medical adviser reviewed Dr. Imbriglia’s findings regarding loss of range of motion in the right wrist and determined that appellant had a six percent impairment for loss of use of the right upper extremity pursuant to the A.M.A., *Guides*. The Office medical adviser derived his impairment rating based on the following calculations: a two percent impairment based on a 50 degree loss of flexion, at Figure 16-28, page 467 of the A.M.A., *Guides*; a two percent impairment based on a 50 degree loss of extension, at Figure 16-28, page 467 of the A.M.A., *Guides*; a one percent impairment based on a 60 degree loss of supination, at Figure 16-37, page 474 of the A.M.A., *Guides*; and a one percent impairment based on a 70 degree loss of pronation, at Figure 16-37, page 474 of the A.M.A., *Guides*.

On March 17, 2005 the Office granted appellant a schedule award for a six percent permanent impairment of the right upper extremity for the period January 12 to May 23, 2005, for a total of 18.72 weeks of compensation.

By letter dated March 21, 2005, appellant’s attorney requested a review of the written record.

By decision dated August 25, 2006, an Office hearing representative affirmed the March 21, 2005 Office decision.¹

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² 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.³ 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.⁴

ANALYSIS

The Office medical adviser determined that appellant had a six percent permanent impairment of the right upper extremity by applying Dr. Imbriglia's findings for decreased range of motion and decreased pronation and supination to the relevant figures of the A.M.A., *Guides*. The method for rating impairment based on loss of range of motion in the wrist is outlined at page 467 of the A.M.A., *Guides*, where it is stated:

“Flexion and extension

“The normal range of wrist motion is from 60 degrees extension to 60 degrees flexion. The position of function is from 10 degrees extension to 10 degrees flexion. The relative value of this motion unit is 42 percent of the upper extremity function.

“(2). In Figure 16-28, match the measured flexion and extension angles (row headed V) to their corresponding impairments of flexion (row headed I(f) [percent]) and extensions (row headed I(e) [percent]). Impairment values for angles falling between those listed in Figure 16-28 may be adjusted or interpolated proportionally in the corresponding interval.

“(3). Add I(f) percent and I(e) percent to obtain the percent of upper extremity impairment contributed by decreased wrist flexion and extension.”

¹ The hearing representative initially issued his decision on August 4, 2005. However, he reissued his decision on August 24, 2006; the hearing representative explained at the conclusion of this decision, parenthetically, that he was reissuing the decision because the Office had failed to submit a copy of the August 4, 2005 decision to appellant's attorney.

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

³ 5 U.S.C. § 8107(c)(19).

⁴ 20 C.F.R. § 10.404.

The Office medical adviser applied Dr. Imbriglia's findings of a 50 degree loss of flexion and a 50 degree loss of extension to Figure 16-28, page 467 of the A.M.A., *Guides* and correctly calculated two percent impairment for each category, based on Dr. Imbriglia's measurements.

The method for rating impairments based on decreased pronation and supination is discussed at page 472 of the A.M.A., *Guides*:

“Pronation and Supination

“The normal range of wrist motion is from 80 degrees supination to 80 degrees pronation. The position of function is 20 degrees pronation. The relative value of this motion unit is 28 percent of the upper extremity function.

“(2). In Figure 16-37, match the measured supination and pronation angles (row headed V) to their corresponding impairments of pronation (row headed I(p) [percent]) and extensions (row headed I(s) [percent]). Impairment values for angles falling between those listed in Figure 16-37 may be adjusted or interpolated proportionally in the corresponding interval.

“(3). Add I(p) percent and I(s) percent to obtain the percent of upper extremity impairment contributed by decreased forearm rotation.”

The Office medical adviser applied Dr. Imbriglia's findings of 60 degree loss of supination and 70 degree loss of pronation to Figure 16-37, page 474 of the A.M.A., *Guides* and calculated a two percent impairment for both elements; these calculations were rendered in conformance with the applicable standards of the A.M.A., *Guides*. The Office properly credited the opinion of the Office medical adviser, as opposed to that of Dr. Imbriglia, who failed to explain how he arrived at his 25 percent impairment rating in his January 12, 2005 report. Dr. Imbriglia derived appellant's impairment by estimating “the combination of the fracture of the wrist, loss of motion, resection arthroplasty of the distal radio-ulnar joint, pain and weakness,” but did not specify the methods by which he calculated his 25 percent rating. As the Office medical adviser's report contained the only correct application of the A.M.A., *Guides* in the instant record, the Office properly found that his opinion constituted the weight of the medical evidence in granting appellant a schedule award for a six percent right upper extremity impairment.

Appellant's attorney requested a review of the written record, but did not submit any additional medical evidence. Appellant has failed to provide probative medical evidence that she has greater than the six percent permanent impairment of the right upper extremity already awarded. The Board, therefore, affirms the August 25, 2006 decision of the Office hearing representative.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the August 25, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 6, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board