

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

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**E.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Addison, TX, Employer**

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**Docket No. 09-1153  
Issued: December 1, 2009**

*Appearances:*  
*Appellant, 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  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 26, 2009 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated February 17, 2009 regarding a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has more than a 16 percent permanent impairment to her left second finger.

**FACTUAL HISTORY**

On November 28, 2007 appellant, then a 42-year-old distribution clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained an injury to her left middle finger as a result of repetitive motion in her federal employment. The Office accepted the claim for left trigger finger. Appellant underwent trigger finger release surgery for the second left finger on April 8, 2008.

In a report dated July 28, 2008, Dr. Robert Helsten, a pain management specialist, reported appellant had 71 degrees of MP (metacarpophalangeal) joint flexion and 4 degrees of extension. For the PIP (proximal interphalangeal) joint, the range of motion was 88 degrees flexion and 3 degrees extension. Dr. Helsten opined that appellant had a 16 percent left second finger impairment for MP loss of motion and 6 percent for PIP, combining for a 21 percent impairment to the finger. He stated this converted into a four percent hand impairment or a four percent left arm impairment.

An Office medical adviser reviewed the medical evidence and in a report dated October 27, 2008 opined that appellant had a 16 percent left second finger impairment for loss of motion. The medical adviser found that Dr. Helsten had incorrectly given a 16 percent impairment for MP loss of flexion, when the proper number was 11 percent. He also indicated that the date of maximum medical improvement was July 28, 2008.

By decision dated February 17, 2009, the Office issued a schedule award for a 16 percent impairment to the left middle finger. The period of the award was 4.80 weeks from July 28, 2008.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.<sup>1</sup> Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.<sup>2</sup>

### **ANALYSIS**

In the present case, appellant submitted a report from Dr. Helsten, finding an impairment of 21 percent to the left second finger.<sup>3</sup> The impairment was based on loss of range of motion for the MP and PIP joints. For the MP joint, Figure 16-25 provides the finger impairments. Dr. Helsten reported 71 degrees of MP flexion, which is an 11 percent finger impairment under Figure 16-25.<sup>4</sup> The Office medical adviser found that Dr. Helsten erred by assigning a 16 percent impairment for loss of flexion. However, the medical adviser fails to acknowledge that Dr. Helsten reported four degrees of MP extension, which would result in a five percent

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<sup>1</sup> 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

<sup>2</sup> A. George Lampo, 45 ECAB 441 (1994).

<sup>3</sup> The medical reports use the term "long" finger and the Office identified it as the "middle" finger. The Act refers to the fingers by numbers one through four, and the Board will follow this terminology. See 5 U.S.C. § 8107.

<sup>4</sup> A.M.A., *Guides* 464, Figure 16-25.

impairment under Figure 16-25.<sup>5</sup> Based on Dr. Helsten's findings, he correctly reported a 16 percent finger impairment for loss of MP motion.

With respect to loss of PIP motion, both Dr. Helsten report a six percent impairment for 88 degrees of flexion, based on Figure 16-23. The reported three degrees of PIP extension does not result in a ratable impairment. The 16 percent MP impairment and the 6 percent PIP impairment are combined, rather than added, using the Combined Values Chart.<sup>6</sup> Combining 16 and 6 results in a 21 percent impairment. The Board accordingly finds that appellant's finger impairment was 21 percent based on the evidence of record.

On appeal, appellant indicates that Dr. Helsten reported a four percent arm impairment. It is well established, however, that only when the residuals of an injury extend into an adjoining area of a scheduled member is the larger member utilized for a schedule award.<sup>7</sup> In this case, there was no evidence that the injury extended beyond the second finger. The schedule award was properly based on an impairment to the second finger.

Pursuant to 5 U.S.C. § 8107, the maximum impairment for the second finger is 30 weeks of compensation. Since appellant has a 21 percent impairment, she is entitled to 21 percent of 30 weeks, or 6.30 weeks. She received 4.80 weeks of compensation; therefore, she is entitled to an additional 1.50 weeks. The case will be remanded for an appropriate decision.

### **CONCLUSION**

The medical evidence establishes a 21 percent impairment to the left second finger, entitling appellant to 6.30 weeks of compensation.

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<sup>5</sup> *Id.* The Board notes that 4 degrees falls in between the angles listed in Figure 16-25 (0 degrees is a five percent impairment, 10 degrees is a three percent impairment). While the A.M.A., *Guides* indicate that impairment values may be adjusted proportionally, Dr. Helsten assigned the closest value of five percent, and the A.M.A., *Guides* do not prohibit this method.

<sup>6</sup> *Id.* at 465. The Combined Values Chart is at page 604.

<sup>7</sup> *Dennis R. Stark*, 57 ECAB 306 (2006); *Charles B. Carey*, 49 ECAB 528 (1998).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 17, 2009 is set aside and the case remanded for action consistent with this decision of the Board.

Issued: December 1, 2009  
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