

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

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C.A., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Memphis, TN, Employer )

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**Docket No. 09-1272  
Issued: January 25, 2010**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On April 16, 2009 appellant filed a timely appeal from a September 11, 2008 merit decision of the Office of Workers' Compensation Programs denying a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant established that she sustained any permanent impairment causally related to her accepted carpal tunnel syndrome thereby entitling her to a schedule award under 5 U.S.C. § 8107.

**FACTUAL HISTORY**

On July 5, 2006 appellant, then a 57-year-old supervisor of distribution operations, filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome in both hands due to her employment duties. The Office accepted the claim for bilateral carpal tunnel syndrome. On February 9, 2006 appellant underwent a carpal tunnel release on the left hand and on June 7, 2006 she underwent carpal tunnel release on the right hand.

On May 9, 2007 appellant filed a request for a schedule award (Form CA-7).

In a May 15, 2007 letter, the Office notified appellant that, to support her schedule award claim, she was required to submit a physician's report providing an impairment rating in accordance with the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).

On June 11, 2007 appellant reported that she was unable to find a physician to perform an impairment rating and requested that the Office refer her to a second opinion physician.

The Office referred appellant, together with her record and a statement of accepted facts, to Dr. Carl Huff, a Board-certified orthopedic surgeon, for a second opinion permanent impairment evaluation. In a July 31, 2007 medical report, Dr. Huff described appellant's occupational and medical history and noted that she had preexisting rheumatoid arthritis. Physical examination of the wrists and hands revealed obvious swelling and thickening of the synovial joint of both wrists with noted tenderness. The range of motion of both wrists was 40 degrees flexion, 30 degrees extension, 15 degrees of radial deviation and 20 degrees of ulnar deviation. Dr. Huff noted an ulnar drift of the metacarpophalangeal (MP) of all joints, as well as thickening, swelling and tenderness in all MP joints. Tinel's and Phalen's signs were negative at the wrist. Sensation was normal. Appellant had a two-point discrimination of six millimeters in all digits. She showed weakness of pinch strength and a grip grade of four out of five, however, Dr. Huff noted that appellant gave inadequate and inconsistent efforts and that the pinch strength tests were not considered a genuine effort. X-rays revealed a slight narrowing of all the MP joints of the fingers and pronounced osteoarthritis of the carpometacarpal (CMC) joint of the thumb with subluxation of the first metacarpal. An obvious ulnar deviation of the fingers and narrowing of the radial carpal joint were also present. Dr. Huff opined that the findings were consistent with the ravages of rheumatoid arthritis. Nerve conduction velocity testing revealed mild residual neuropraxia of the median nerve at the wrist. Distal motor latency was normal on the left and there was minimal prolongation of distal sensor latency of the median nerve bilaterally.

Dr. Huff diagnosed postoperative status carpal tunnel release bilaterally and rheumatoid arthritis of the hands. He stated that the current functional incapacity and impairment of dexterity and strength in appellant's hands was a result of the rheumatoid arthritis and not resulting from residuals of bilateral carpal tunnel release. Dr. Huff opined that the advanced manifestation of rheumatoid arthritis normally results in very marked impairment of the function of the hands. Also, with destructive changes at the wrist, there would be a loss of range of motion, which would be caused by the arthritis and not the carpal tunnel release. Further, Dr. Huff stated that, although the pinch and grip strength were diminished, this was not due to neuropraxia of the median nerve but due to the rheumatoid arthritis. In particular, the destructive changes at the MP joints of the fingers and the subluxation and destructive arthritis at the CMC joint of the thumb bilaterally caused the loss of strength. Dr. Huff opined that appellant did not sustain a ratable impairment to her upper extremities due to the employment injury. He noted that she reached maximum medical improvement on August 1, 2006.

On August 20, 2007 the Office forwarded Dr. Huff's medical report to an Office medical adviser for a determination of permanent impairment of the upper extremities. In an August 20,

2007 medical report, the Office medical adviser stated that appellant had very good results following the surgical release of the carpal tunnel compression and that her current limitations were due to rheumatoid arthritis. He found that appellant did not sustain any permanent impairment to her upper extremities.

By decision dated August 21, 2007, the Office denied appellant's claim for a schedule award on the grounds that the medical evidence of record did not demonstrate that she sustained a permanent impairment due to her carpal tunnel syndrome. It found that Dr. Huff's July 31, 2007 medical report was well reasoned and supported by objective medical evidence. Thus, it represented the weight of the medical evidence.

On April 21, 2008 appellant filed a request for reconsideration. She questioned the accuracy of Dr. Huff's medical report and stated that she experienced rheumatoid arthritis in her knee but not her hands. Appellant stated that her treating physician had not discovered any rheumatoid arthritis in either hand and continued to treat her for carpal tunnel syndrome.

Appellant submitted medical reports dated January 15 through March 25, 2008 from Dr. James H. Calandruccio, a Board-certified orthopedic surgeon, who reported appellant's continued problems with both wrists following bilateral carpal tunnel releases. Dr. Calandruccio diagnosed residual effects of carpal tunnel syndrome, as well as a serial negative connective tissue disorder.

On August 29, 2008 appellant filed another request for reconsideration.

By decision dated September 11, 2008, the Office denied modification of the August 21, 2007 decision. It noted that it performed a merit review to protect appellant's appeal rights. The Office found that appellant did not submit any medical evidence containing an impairment rating in accordance with the A.M.A., *Guides* contrary to Dr. Huff's findings. Thus, the medical evidence did not support a finding of permanent impairment entitling appellant to a schedule award.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>1</sup> and its implementing regulations<sup>2</sup> set 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. The Act, however, does not specify the manner in which the percentage of loss shall be determined. The method used in making such a determination is a matter that rests within the sound discretion of the Office.<sup>3</sup> 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 uniform standards applicable to all claimants. The A.M.A., *Guides* has been

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> 20 C.F.R. § 10.404.

<sup>3</sup> *Linda R. Sherman*, 56 ECAB 127 (2004); *Danniel C. Goings*, 37 ECAB 781 (1986).

adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.<sup>4</sup>

### ANALYSIS

The Office accepted that appellant sustained bilateral carpal tunnel syndrome due to her federal employment. The issue is whether she sustained a causally related permanent impairment to a scheduled member entitling her to a schedule award.

The Office referred appellant to Dr. Huff for a second opinion on impairment. Dr. Huff diagnosed rheumatoid arthritis and postoperative status carpal tunnel release bilaterally. Physical examination revealed limited range of motion in the wrists and a weakness of pinch and grip strength, but, Dr. Huff noted that appellant gave inconsistent and inadequate efforts during the strength testing.<sup>5</sup> Tinel's and Phalen's signs were negative. Dr. Huff opined that appellant's current functional incapacity was due to rheumatoid arthritis and not residuals from the carpal tunnel release. He stated that advanced rheumatoid arthritis normally results in such marked functional impairment of the hands and causes destructive changes leading to a loss of range of motion. Dr. Huff further opined that the destructive changes from the rheumatoid arthritis at the MP joints of the fingers and the subluxation and destructive arthritis at the CMC joint of the thumb bilaterally caused appellant's loss of pinch and grip strength. He concluded that appellant did not sustain a ratable impairment to her upper extremities due to the employment-related carpal tunnel syndrome. Dr. Huff noted that she reached maximum medical improvement on August 1, 2006.

The Office properly referred Dr. Huff's medical report to an Office medical adviser, who concurred with the finding that appellant did not sustain a permanent impairment to her upper extremities.<sup>6</sup> He noted that appellant had very good results following the surgical release of the carpal tunnel compression and that the current limitations were due to rheumatoid arthritis.

Dr. Huff's medical report was based on a complete and accurate medical and factual history. He provided a well-rationalized opinion to support his conclusion that appellant's impairments were unrelated to her employment injury but rather due to her preexisting rheumatoid arthritis.<sup>7</sup> Further, Dr. Huff properly applied A.M.A., *Guides* to his findings and determined that appellant did not sustain a ratable, permanent impairment to her upper extremities due to the accepted carpal tunnel syndrome. Thus, the Board finds that his opinion represents the weight of the medical evidence.<sup>8</sup>

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<sup>4</sup> *Ronald R. Kraynak*, 53 ECAB 130 (2001).

<sup>5</sup> According to the A.M.A., *Guides*, where there is evidence that an individual is exerting less than maximal effort, the grip strength measurements are invalid for estimating impairment. A.M.A., *Guides* 509.

<sup>6</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6(d) (August 2002).

<sup>7</sup> See *Angel L. Candelas*, 31 ECAB 120 (1980).

<sup>8</sup> See *Joseph H. Stuart*, 44 ECAB 583 (1993).

Appellant subsequently submitted several medical reports dated January 15 through March 25, 2008 from Dr. Calandruccio who reported appellant's continued problems with both wrists following bilateral carpal tunnel releases. Dr. Calandruccio diagnosed residual effects of carpal tunnel syndrome, as well as a serial negative connective tissue disorder. He did not address whether appellant sustained a permanent impairment to her upper extremities due to her bilateral carpal tunnel syndrome, nor did he provide a permanent impairment rating in accordance with the fifth edition of the A.M.A., *Guides*. Therefore, the Board finds these medical reports are of diminished probative value<sup>9</sup>

The Board finds that Dr. Huff's medical report represents the weight of the medical evidence. Thus, appellant did not establish her entitlement to a schedule award.

### **CONCLUSION**

The Board finds that appellant did not establish that she sustained any permanent impairment causally related to her accepted bilateral carpal tunnel syndrome thereby entitling her to a schedule award under 5 U.S.C. § 8107.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the September 11, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 25, 2010  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>9</sup> See *A.L.*, 60 ECAB \_\_\_\_ (Docket No. 08-1730, issued March 16, 2009).