United States Department of Labor
Employees' Compensation Appeals Board

B.W., Appellant	)	
and	)	**Docket No. 11-1532**
	)	**Issued: April 6, 2012**
DEPARTMENT OF DEFENSE, DEFENSE SUPPLY CENTER, Richmond, VA, Employer	)	

Appearances:
Appellant, pro se
No appearance, for the Director

Oral Argument March 6, 2012

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 16, 2011 appellant filed a timely appeal from the May 9, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP), which affirmed her schedule award. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant has more than a 21 percent impairment of her left thumb.

FACTUAL HISTORY

On May 24, 2007 appellant, a 62-year-old supervisory acquisition specialist, sustained an injury in the performance of duty when a door slammed shut on her left hand. Dr. James E.B. Stuart, V, a Board-certified orthopedic surgeon specializing in hand surgery, found tenderness at the A1 pulley of the left thumb with palpable triggering. He diagnosed stenosing tenosynovitis,

[1] 5 U.S.C. § 8101 *et seq.*

left thumb. Appellant underwent an A1 pulley release in November 2007. In December 2007, she underwent a left thumb debridement. Appellant's postoperative diagnosis was left thumb infection, status post A1 pulley release and degenerative rupture of the flexor pollicis longus tendon. OWCP accepted her claim for trigger finger (acquired), left.

Appellant claimed a schedule award. In September 2010, a physical therapist assessed her impairment during a functional capacity evaluation. The interphalangeal (IP) joint of the left thumb showed zero degrees flexion. There was no active motion. The joint was positioned at +30 degrees extension. The metacarpophalangeal (MCP) joint showed 52 degrees flexion and 0 degrees extension. The carpometacarpal (CMC) joint showed 54 degrees radial abduction, three centimeters adduction and four centimeters opposition. The therapist determined that appellant had a 27 percent impairment of her left thumb due to motion loss, as follows: 13 percent at the IP joint, 1 percent at the MCP joint and 13 percent at the CMC joint. Dr. Stuart signed the rating in agreement.

Dr. Craig M. Uejo, an OWCP medical consultant Board-certified in occupational medicine, reviewed the September 2010 impairment evaluation. As the record showed that the IP joint was not ankylosed or fused, he found it improper to rate the joint as though it were. Dr. Uejo explained that the motion loss was severe, representing a six percent digit impairment.[2] He found a two percent impairment for 52 degrees flexion of the MCP joint. Dr. Uejo found a four percent impairment for three centimeters adduction of the CMC joint, no impairment for 54 degrees abduction, and a nine percent impairment for four centimeters opposition.[3] These added to a final digit impairment of 21 percent.

On December 22, 2010 OWCP issued a schedule award for a 21 percent impairment of appellant's left thumb. On May 9, 2011 an OWCP hearing representative affirmed.

On appeal, appellant argues that her injury did not result in a trigger thumb; it was a ruptured tendon with her thumb bent backwards "as if I'm hitchhiking." She states that it is getting worse by the day. At the oral argument, appellant demonstrated the limited motion of her thumb and emphasized that she cannot use it. She was of the opinion that her impairment is more than 21 percent. Appellant acknowledged that Dr. Stewart found a 27 percent impairment and did not identify any medical evidence showing more.

LEGAL PRECEDENT

FECA authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body.[4] Such loss or loss of use is known as permanent

[2] American Medical Association, *Guides to the Evaluation of Permanent Impairment* 468 (6th ed. 2009) (Table 15-30).

[3] *Id*.

[4] 5 U.S.C. § 8107.

impairment. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.[5]

ANALYSIS

Diagnosis-based impairment is the primary method of evaluation for the upper extremities.[6] The highest rating that can be given for a diagnosis of flexor tendon rupture or digital stenosing tenosynovitis (trigger digit) is eight percent. The A.M.A., *Guides*, however, permits motion loss impairment as a stand-alone alternative.[7]

Table 15-30, page 468 of the A.M.A., *Guides* shows impairment values for thumb range of motion. Dr. Stuart, the attending orthopedic surgeon, found a 13 percent impairment at the IP joint; however, as Dr. Uejo, an OWCP medical consultant, explained, appellant's IP joint was not ankylosed or fused. It could be flexed passively. Therefore, it was improper to give the 13 percent rating reserved for a frozen joint. Instead, zero degrees active flexion reported at the functional capacity evaluation represents a severe loss of flexion, or a six percent impairment of the thumb. This is the highest rating that can be given for a nonfused IP joint. Extension greater than or equal to 10 degrees represents no impairment.

In the MCP joint, flexion of 52 degrees is a mild motion loss representing a two percent digit impairment. Dr. Stuart found only one percent. Extension of zero degrees represents no impairment.

In the CMC joint, Dr. Stuart and Dr. Uejo agreed. Radial abduction of 54 degrees represents no impairment. Adduction of three centimeters is a mild motion loss and represents a four percent digit impairment and opposition of four centimeters is a moderate motion loss representing a nine percent impairment.

If range of motion is used as a stand-alone approach, the losses of thumb IP, MCP and CMC motion are added.[8] Accordingly, appellant has a 21 percent left thumb impairment (6 + 2 + 4 + 9 = 21). This rating is less than the 27 percent found by Dr. Stuart, but he incorrectly based his rating on a fused IP joint and gave only a 1 percent rating for MCP flexion. The Board finds that Dr. Uejo correctly compared the recorded ranges of motion to Table 15-30 of the A.M.A., *Guides*. The Board will therefore affirm OWCP's May 9, 2011 decision.

Appellant takes issue with the diagnosis of trigger thumb, but that does not affect her rating. Whether diagnosed as a trigger digit or a ruptured tendon, her diagnosis-based impairment is no more than eight percent. The range of motion loss alternative provides a

[5] 20 C.F.R. § 10.404. For impairment ratings calculated on and after May 1, 2009, OWCP should advise any physician evaluating permanent impairment to use the sixth edition. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards & Permanent Disability Claims*, Chapter 2.808.6.a (January 2010).

[6] A.M.A., *Guides* 387.

[7] *Id*. at 392 (Table 15-2).

[8] *Id*. at 466.

significantly higher rating. When rating impairment based on measured ranges of motion, the precise diagnosis has no real bearing. The measurements determine the impairment. Appellant's 21 percent rating for motion loss was accurate as determined by Dr. Uejo.

Should appellant believe that her impairment has increased since Dr. Stuart's September 2010 evaluation, she may request an increased schedule award based on medical evidence showing progression of an employment-related condition resulting in increased impairment.

CONCLUSION

The Board finds that appellant has no more than a 21 percent impairment of her left thumb based on the ranges of motion recorded in September 2010.

ORDER

IT IS HEREBY ORDERED THAT the May 9, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 6, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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