

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

---

**M.H., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Lenoir, NC, Employer**

---

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

**Docket No. 18-0981  
Issued: October 29, 2018**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On April 13, 2018 appellant filed a timely appeal from a March 9, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish permanent impairment of her right lower extremity causally related to her accepted October 24, 2016 employment injury.

**FACTUAL HISTORY**

On October 31, 2016 appellant, then a 69-year-old distribution clerk, filed a traumatic injury claim (Form CA-1) alleging that she sustained an injury while at work on October 24, 2016

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

when she slipped on a plastic strap and fell forward to the floor, landing on her hands and right knee. She stopped work on October 25, 2016 and received continuation of pay.

On September 20, 2017 OWCP accepted that appellant sustained displaced bicondylar fracture of her right tibia, initial encounter for closed fracture, based on the October 24, 2016 report and diagnostic testing of Dr. Brian Krenzel, an attending Board-certified orthopedic surgeon.<sup>2</sup>

In a December 9, 2016 report, Dr. Krenzel indicated that appellant presented and reported that she had no pain in her right leg. The physical examination showed full range of motion of the right knee with no swelling or tenderness ridge. Appellant was neurovascular intact distally and x-rays that Dr. Krenzel obtained of the right knee showed no obvious fracture line or signs of bony lesions.

In a January 18, 2017 report, Dr. Krenzel indicated the physical examination of appellant's right leg on that date revealed that she was neurovascularly intact in all dermatomes and that range of motion of her right knee was from 0 to 135 degrees. X-ray testing he obtained of the right knee showed no gross abnormality with no fracture, dislocation, or osteophyte formation. There was only very mild joint space narrowing medially. Dr. Krenzel diagnosed stress fracture of right tibia with routine healing.

On February 27, 2017 Dr. Krenzel advised that, upon physical examination, appellant had a mildly antalgic gait with no lurch and that range of motion of the right knee was from 0 to 100 degrees with no pain. Motor strength was 5/5 in the tibialis anterior, extensor hallucis longus, and gastrocnemius muscles, and sensation was intact in all dermatomes. Dr. Krenzel noted that x-ray testing he obtained of the right knee on February 27, 2017 showed no gross abnormality with no fracture, dislocation, or significant osteophyte formation. He diagnosed stress fracture of right tibia with routine healing.

On November 9, 2017 appellant filed a claim for compensation (Form CA-7) seeking a schedule award due to her accepted employment injury.

In a February 2, 2018 report, Dr. Krenzel noted that appellant presented for follow-up of right knee pain, but was now reporting symptoms that were different than her initial presentation. Initially, appellant had symptoms, including pain with weight-bearing, that fit her diagnosis of right tibial stress fracture, but she was now describing diffuse right leg weakness. Dr. Krenzel indicated that appellant now expressed a new complaint that she had weakness and pain in her entire leg which developed as a result of her October 24, 2016 employment injury, a problem which she reported not having prior to October 24, 2016. During the February 2, 2018 physical examination, appellant complained of diffuse right leg pain, rather than right proximal tibial pain,

---

<sup>2</sup> OWCP initially denied appellant's claim on December 21, 2016, at which time it determined that appellant had established the occurrence of the October 24, 2016 employment incident in the form of a fall, but had failed to submit medical evidence sufficient to establish causal relationship between a diagnosed condition and the accepted employment incident. By decision dated September 20, 2017, OWCP's hearing representative accepted appellant's claim, noting that there is no need to obtain a rationalized explanation of causal relationship when a simple traumatic injury such as a slip or fall is promptly reported to and seen by a physician.

and exhibited a right-sided gait abnormality that seemed to be somewhat forced.<sup>3</sup> Appellant had full range of motion of her right knee and she exhibited no effusion or tenderness to palpation/squeeze along the proximal tibia. Dr. Krenzel reported that appellant had 5/5 strength in all major lower extremity muscle groups and noted that previous right knee x-rays he obtained demonstrated no knee arthritis or evidence of fracture. He opined that she had long since reached maximum medical improvement (MMI) from the October 24, 2016 proximal tibial stress fracture. With regard to appellant's subjective claims of gait abnormality and weakness, Dr. Krenzel could find no objective findings other than what appeared to be a very awkward gait pattern that he had not seen previously. He diagnosed stress fracture of right tibia with routine healing and noted, "At this point in time I do not think she is subject to any formal rating relative to the tibial stress fracture based upon North Carolina industrial code."

On February 22, 2018 OWCP referred appellant's case to Dr. Nathan Hammel, a Board-certified orthopedic surgeon, who served in his capacity as an OWCP medical adviser. It requested that Dr. Hammel review the medical evidence of record, including Dr. Krenzel's February 2, 2018 report, and provide an evaluation of right lower extremity permanent impairment under the standards of the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>4</sup>

In a March 1, 2018 report, Dr. Hammel indicated that he had reviewed the evidence of record, including Dr. Krenzel's February 2, 2018 report. He noted that Dr. Krenzel's February 2, 2018 physical examination documented diffuse leg pain, weakness, and gait abnormality which was not described as antalgic in nature. Dr. Hammel further indicated that Dr. Krenzel's examination showed no tenderness, limited range of motion, or weakness, and the x-rays of appellant's right knee showed no abnormality. He determined that application of the diagnosis-based impairment (DBI) rating method under Table 16-3 on page 511 of the sixth edition of the A.M.A., *Guides* meant that appellant's right proximal tibia fracture (nondisplaced with no significant objective abnormality) fell under class 0. Therefore, the permanent impairment of appellant's right lower extremity was zero percent.<sup>5</sup>

By decision dated March 9, 2018, OWCP denied appellant's schedule award claim, finding that she failed to submit medical evidence establishing permanent impairment of her right lower extremity due to her accepted October 24, 2016 employment injury. It explained that its determination was supported by the March 1, 2018 evaluation of Dr. Hammel, who applied the standards of the sixth edition of the A.M.A., *Guides*.

---

<sup>3</sup> Dr. Krenzel advised that appellant purposely used her right hamstrings to circumduct her gait and forcibly extended her right knee in a buckle pattern, which was a gait pattern abnormality he had not seen in his nearly decade-long practice.

<sup>4</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>5</sup> Dr. Krenzel also noted that the normal range of motion of appellant's right knee meant that permanent impairment based on a range of motion (ROM) methodology was zero percent. He found that appellant had reached MMI on February 2, 2018, the date of Dr. Krenzel's examination.

## LEGAL PRECEDENT

The schedule award provisions of FECA,<sup>6</sup> and its implementing federal regulation,<sup>7</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. However, FECA does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.<sup>8</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>9</sup>

In determining impairment for the lower extremities under the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the lower extremity to be rated. With respect to the knee, the relevant portion of the leg for the present case, reference is made to Table 16-3 (Knee Regional Grid) beginning on page 509.<sup>10</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish permanent impairment of her right lower extremity causally related to her accepted October 24, 2016 employment injury.

In a February 2, 2018 report, Dr. Krenzel, an attending physician, noted that appellant presented for follow-up of right knee pain, but was now reporting symptoms that were different than her initial presentation. Initially, appellant had symptoms, including pain with weight-bearing, that fit her diagnosis of right tibial stress fracture, but she was now describing diffuse right leg weakness. During the February 2, 2018 physical examination, she complained of diffuse right leg pain, rather than right proximal tibial pain, and exhibited a right-sided gait abnormality that seemed to be somewhat forced.<sup>11</sup> Appellant had full range of motion of her right knee and she exhibited no effusion or tenderness to palpation/squeeze along the proximal tibia. Dr. Krenzel reported that appellant had 5/5 strength in all major lower extremity muscle groups and that noted that previous right knee x-rays he obtained demonstrated no knee arthritis or evidence of fracture. He opined that appellant had long since reached MMI from the October 24, 2016 proximal tibial

---

<sup>6</sup> 5 U.S.C. § 8107.

<sup>7</sup> 20 C.F.R. § 10.404.

<sup>8</sup> *Id.* at § 10.404(a).

<sup>9</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5(a) (March 2017); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>10</sup> *See* A.M.A., *Guides* (6<sup>th</sup> ed. 2009) 509-11.

<sup>11</sup> Dr. Krenzel advised that appellant purposely used her right hamstrings to circumduct her gait and forcibly extended her right knee in a buckle pattern, which was a gait pattern abnormality he had not seen in his nearly decade-long practice.

stress fracture. Dr. Krenzel noted, “At this point in time I do not think she is subject to any formal rating relative to the tibial stress fracture based upon North Carolina industrial code.”

The Board finds that, on March 1, 2018, Dr. Hammel, an OWCP medical adviser, properly applied the standards of the sixth edition of the A.M.A., *Guides* to determine that appellant had no right lower extremity permanent impairment. He noted that Dr. Krenzel’s February 2, 2018 physical examination documented diffuse leg pain, weakness, and gait abnormality which was not described as antalgic in nature. Dr. Hammel further indicated that Dr. Krenzel’s examination showed no tenderness, limited range of motion, or weakness, and the x-rays of appellant’s right knee showed no abnormality. He determined that application of the DBI rating method under Table 16-3 on page 511 of the sixth edition of the A.M.A., *Guides* meant that appellant’s right proximal tibia fracture (nondisplaced with no significant objective abnormality) fell under class 0.<sup>12</sup> Therefore, Dr. Hammel properly concluded that the permanent impairment of appellant’s right lower extremity was zero percent.<sup>13</sup>

Appellant may request a schedule award or increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish permanent impairment of her right lower extremity causally related to her accepted October 24, 2016 employment injury.

---

<sup>12</sup> See A.M.A., *Guides* 511, Table 16-3.

<sup>13</sup> Dr. Krenzel found that appellant reached MMI on February 2, 2018, the date of Dr. Krenzel’s examination. He also properly determined that there was no basis under the A.M.A., *Guides* to find that appellant had right lower extremity permanent impairment based on the ROM methodology for the right knee.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 9, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 29, 2018  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board