

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT A. FULLER and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Southeastern, PA

*Docket No. 99-2391; Submitted on the Record;
Issued October 18, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, PRISCILLA ANNE SCHWAB,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has more than a 20 percent permanent impairment to his right second finger.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a sprain of the right second finger, as well as tenosynovitis of the right second finger, in the performance of duty on July 3, 1996. By decision dated November 18, 1997, the Office issued a schedule award for a 20 percent permanent impairment to the right second finger. The period of the award was 6 weeks, commencing October 16, 1997. In a decision dated June 3 and finalized June 4, 1998, an Office hearing representative set aside the decision, finding that the medical evidence did not explain how the 20 percent figure was calculated.

By decision dated August 5, 1998, the Office determined that appellant had not established that he was entitled to an additional schedule award. In a decision dated April 1, 1999, an Office hearing representative affirmed the August 5, 1998 decision.

The Board has reviewed the record and finds that appellant has not established more than a 20 percent permanent impairment to his right second finger.

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.¹ 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

¹ 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).

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.²

In this case, the Office referred appellant to Dr. Andrew B. Sattel, an orthopedic surgeon, for evaluation. In a report dated October 16, 1997, Dr. Sattel opined that appellant had a 20 percent impairment to the right second finger, but, as noted by the hearing representative, he failed to explain how the percentage was calculated under the A.M.A., *Guides*. In a supplemental report, Dr. Sattel identified Table 29, which provides that a mild constrictive tenosynovitis results in a 20 percent permanent impairment for the second finger.³ In a report dated July 30, 1998, an Office medical adviser stated that he concurred with Dr. Sattel's calculations.⁴

The Board finds that the probative medical evidence indicates a 20 percent permanent impairment to the right second finger. Appellant argues that an attending physician, Dr. Nicholas P. Diamond, an osteopath, had opined in a June 26, 1997 report that appellant had a 30 percent hand impairment for loss of grip strength. The Board notes that Dr. Diamond did not identify any tables in the A.M.A., *Guides*, nor does his calculation correspond to a specific table.⁵ Moreover, the A.M.A., *Guides* state that grip strength results are not assigned a large role in impairment ratings because they are influenced by subjective factors and are used "in a rare case."⁶

An Office medical adviser noted in an August 4, 1997 report that the A.M.A., *Guides* advise taking grip strength measurements over a period of time to ensure that the patient has reached maximum medical improvement. Dr. Diamond did not respond and address these issues. Nor does any physician of record provide a reasoned opinion establishing that grip strength should be used in calculating appellant's employment-related permanent impairment in this case.

Accordingly, the weight of the probative medical evidence rests with Dr. Sattel, who opined that appellant had a 20 percent impairment to the right second finger. There is no probative evidence establishing a greater impairment in this case.

² A. George Lampo, 45 ECAB 441 (1994).

³ A.M.A., *Guides*, 63, Table 29. This table is used with Table 18 to determine the impairment. For the middle finger, the impairment is 20 percent of 100 percent, for the hand the impairment is 20 percent of 20 percent, or 4 percent. Dr. Sattel incorrectly provides a hand impairment of one percent, but since the impairment is limited to one digit, the hand impairment is not appropriate. If more than one digit is involved, the Office should apply the hand impairment, or the cumulative impairments of the digits, whichever results in more weeks of compensation. Program Memorandum No. 134 (issued February 3, 1971).

⁴ The medical adviser referred to a four percent finger impairment, but he clearly stated he concurred with Dr. Sattel, who found a 20 percent finger impairment.

⁵ Under Table 34, page 65, the grip strength results provided by Dr. Diamond would result in a 44 percent strength loss index, for a 20 percent permanent impairment.

⁶ A.M.A., *Guides* 64.

The decision of the Office of Workers' Compensation Programs dated April 1, 1999 is affirmed.

Dated, Washington, DC
October 18, 2000

Michael J. Walsh
Chairman

Priscilla Anne Schwab
Alternate Member

Valerie D. Evans-Harrell
Alternate Member