

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BARBARA J. OLIVER and U.S. POSTAL SERVICE,
POST OFFICE, Norwalk, CT

*Docket No. 00-1066; Submitted on the Record;
Issued March 8, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has a permanent impairment of her right thumb.

On December 2, 1997 appellant, then a 34-year-old distribution clerk, filed an occupational disease claim alleging that on September 17, 1997 she experienced pain in her right thumb as she was sorting flats. On October 13, 1998 the Office of Workers' Compensation Programs accepted that appellant sustained employment-related sclerosing tenosynovitis, known as trigger thumb and authorized surgery.¹ On March 3, 1999 appellant filed a schedule award claim.

In a report dated May 11, 1999, Dr. Ronald A. Ripps, appellant's treating Board-certified orthopedic surgeon, indicated that "[appellant] was noted to have tenosynovitis at surgery and although the surgery released mechanical impingement, the tenosynovitis has not been 'cured' and bears a 10 percent permanent impairment and loss of physical function to the nondominant thumb (Table 29, page 63, American Medical Association, *Guides to the Evaluation of Permanent Impairment*, 4th edition)." Dr. Ripps also noted that on physical examination appellant had a full, painless range of motion of her thumb, the thumb was not tender, there was no instability and she had reached maximal medical improvement.

In a report dated June 22, 1999, the district medical adviser opined that the medical record provided no basis upon which to grant a schedule award. He stated:

"Dr. Ripps assigns a 10 percent impairment of the right thumb based on Table 29, page 63 of the A.M.A., *Guides*. For the mildest impairment of a digit due to constrictive tenosynovitis, 'mild inconstant triggering during active range of

¹ The procedural history indicates that, by decision dated March 19, 1998, the claim was initially denied. Following a review of the written record, in a September 3, 1998 decision, an Office hearing representative affirmed the prior decision. Appellant submitted additional medical evidence and the claim was accepted.

motion is required.’ With all respect to Dr. Ripps, there is not[hing] found in any report since the surgery of December 29, 1997, any report to support such a disability.”

He added that the date of maximum medical improvement was January 22, 1998.

The Office then referred appellant to Dr. Roger Lagratta, a Board-certified orthopedic surgeon, along with a statement of accepted facts, the medical record and a set of questions for a second opinion. In his report dated August 13, 1999, Dr. Lagratta noted appellant’s history and his impression: “Excellent result status post right thumb flexor tenovagotomy.” Dr. Lagratta further indicated:

“[S]he reached maximum medical improvement effective January 22, 1998. I find no evidence of permanent impairment. Using the A.M.A., *Guides* 4th ed. on page 3/63, impairment is given for constrictive tenosynovitis if there is evidence of persistent triggering. Since I find no objective evidence of a triggering in this case, I am not able to assign a permanent impairment.”

By decision dated September 9, 1999, the Office found that appellant did not sustain permanent impairment to her right thumb, based on the opinion of Dr. Lagratta.

The Board finds that appellant is not entitled to a schedule award.

Under section 8107 of the Federal Employees’ Compensation Act² and section 10.404 of the implementing federal regulations,³ schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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* have been adopted by the Office and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁴

In assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value and its convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the physician’s knowledge of the facts and medical history, the care of analysis manifested, and the medical rationale expressed in support of the physician’s opinion are factors which enter into this evaluation.⁵

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (1999).

⁴ *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

⁵ *Connie Johns*, 44 ECAB 560 (1993).

The Board has long held that a medical opinion regarding permanent impairment which is not based upon the A.M.A., *Guides*, the standard adopted by the Office and approved by the Board as appropriate for evaluating schedule losses, is of little probative value in determining the extent of a claimant's permanent impairment.⁶

In this case, Dr. Ripps did not clearly apply the standards set forth in the A.M.A., *Guides*. His May 11, 1999 report is, therefore, of little probative value. Thus, the Office properly requested that Dr. Lagratta provide a second opinion evaluation to determine the extent of appellant's permanent impairment pursuant to the A.M.A., *Guides*.

Dr. Lagratta provided a comprehensive report dated August 13, 1999 in which he applied the appropriate standards of the A.M.A., *Guides*, and provided a clear rationale for his assessment. Therefore, his report is of greater probative value than Dr. Ripps' report, and the Office properly found that appellant is not entitled to a schedule award.

The September 9, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 8, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

⁶ *James Kennedy, Jr.*, 40 ECAB 620 (1989).