

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LOUTISHA E. WILLIS and U.S. POSTAL SERVICE,
POST OFFICE, Evanston, IL

*Docket No. 03-2019; Submitted on the Record;
Issued June 24, 2004*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has more than a two percent impairment rating for which she had received a schedule award.

On June 8, 2000 appellant, then a 58-year-old clerk, filed an occupational disease claim, alleging that her carpal tunnel syndrome and severe tenosynovitis were caused by her employment. On October 24, 2000 the Office of Workers' Compensation Programs accepted appellant's claim for right carpal tunnel syndrome and tenosynovitis of the first extensor compartment.

In a report dated July 3, 2001, Dr. Lim-Kuy D. Kho, appellant's treating physician and a specialist in hand surgery, stated that she was disabled as a result of de Quervain's disease, right wrist, from May 4, 2000 to the present.

In a report dated November 21, 2001, Dr. Julie M. Wehner, a Board-certified orthopedic surgeon and a second opinion physician, noted a negative Tinel's sign and Phalen's test and a positive Finkelstein's sign. She recommended additional testing to determine if appellant's carpal tunnel syndrome had resolved. In a report dated April 12, 2002, Dr. Gerald D. Harris, Board-certified in plastic surgery and an impartial medical examiner, determined that appellant had carpal tunnel syndrome and de Quervain's syndrome.¹ Dr. Harris provided range of motion findings and positive median nerve compression test, Tinel's sign and Phalen's test over the median nerve and a positive Finkelstein's sign on the right. He recommended that she undergo surgical deep compression and, in an addendum report, rated appellant's impairment at six percent for her right upper extremity. On April 25, 2003 appellant filed a claim for a schedule award. On May 12, 2003 Dr. David H. Garelick, a Board-certified orthopedic surgeon and an

¹ The Office had determined that a conflict in medical evidence existed between Dr. Kho, appellant's treating physician and Dr. Wehner, the second opinion physician, as to whether appellant is totally disabled for all work or capable of working in a restricted duty capacity.

Office medical adviser, reviewed appellant's medical record including Dr. Harris' report, and recommended that, under Tables 16-15 and 16-10 of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5th ed. 2001) appellant would be entitled to a two percent right upper extremity impairment due to Grade 3 pain in the distribution of the radial nerve at the wrist.

By decision dated July 17, 2003, the Office awarded appellant a two percent impairment rating of her right upper extremity. The award ran from April 12 to May 25, 2002 for a period of 6.24 weeks.

The Board finds that the case is not in posture for decision.

Section 8107 of the Federal Employees' Compensation Act² provides that, if there is a 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. However, the Act 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 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 adopted by the implementing regulation as the appropriate standard for evaluating scheduled losses.³ The fifth edition of the A.M.A., *Guides* provides that impairment for carpal tunnel syndrome be rated on motor and sensory impairments only.⁴

In this case, a review of the record fails to reveal any evaluation by an examining orthopedist to determine the permanent impairment of appellant's right upper extremity. Although Dr. Harris provided range of motion findings of the right wrist in his April 12, 2002 report and recommended a six percent impairment rating in an addendum report, he did not rely on the A.M.A., *Guides*. Dr. Garelick, in his report, relied on the whole record and various medical reports rather than a single comprehensive report.

² 5 U.S.C. §§ 8101-8193.

³ *Jacqueline S. Harris*, 54 ECAB ____ (Docket No. 02-203, issued October 4, 2002).

⁴ *Robert V. Disalvatore*, 54 ECAB ____ (Docket No. 02-2256, issued January 17, 2003).

The July 17, 2003 decision of the Office of Workers' Compensation Programs will be set aside and the case remanded to the Office for referral to an appropriate Board-certified specialist, accompanied by a statement of accepted facts and the complete case record, for a second opinion evaluation to determine the impairment rating of appellant's right upper extremity. After such further development as deemed necessary, the Office shall issue a *de novo* decision.

Dated, Washington, DC
June 24, 2004

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member