

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHEN J. WARD and DEPARTMENT OF THE ARMY,
RDPW, Fort Dix, N.J.

*Docket No. 97-561; Submitted on the Record;
Issued September 1, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
DAVID S. GERSON

The issue is whether appellant has more than an eight percent loss of hearing of the left ear for which he received a schedule award.

The Board has duly reviewed the case on appeal and finds that appellant has no more than an eight percent loss of hearing.

On April 5, 1996 appellant, then a 39-year-old boiler plant operator, filed an occupational disease claim, alleging that he sustained a bilateral hearing loss due to employment-related noise. The Office of Workers' Compensation Programs referred appellant, along with the medical record and a statement of accepted facts, to Dr. Robert Belafsky, a Board-certified otolaryngologist, for evaluation. In a report dated August 6, 1996, Dr. Belafsky advised that appellant's hearing loss was employment related. By letter dated August 21, 1996, the Office accepted that appellant sustained an employment-related bilateral sensorineural hearing loss, and on September 4, 1996 appellant filed a claim for a schedule award. After review by an Office medical adviser, by decision dated October 4, 1996, the Office granted appellant a schedule award for an eight percent loss of hearing of the left ear and authorized compensation for 4.16 weeks, to run from June 25 to July 24, 1996. Appellant requested reconsideration and, by decision dated October 31, 1996, the Office denied the request. The instant appeal follows.

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993), using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added up and averaged. Then a "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no

impairment in the ability to hear everyday sounds under everyday conditions.¹ The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural loss. The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss. The lesser loss is multiplied by five, then added to the greater loss and the total is divided by six, to arrive at the amount of the binaural hearing loss.² The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.³

In the present case, Dr. Robert B. Belafsky, a Board-certified otolaryngologist, to whom appellant was referred for audiometric testing and otologic evaluation and the Office medical adviser applied the Office's standardized procedures to the audiogram performed by audiologist Gail Cummins on June 25, 1996. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second, revealed thresholds of 10, 15, 15 and 40 decibels, respectively. These were totaled at 80 decibels and divided by 4 to obtain the average hearing loss at those cycles of 20 decibels. The average of 20 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent loss of hearing for the right ear. Testing in the left ear at the frequencies of 500, 1,000, 2,000 and 3,000 hertz revealed thresholds of 15, 20, 30 and 55 decibels. These were totaled at 120 decibels and divided by 4 to obtain the average hearing loss at those cycles of 30 decibels. The average of 30 decibels was then reduced by 25 decibels to equal 5 decibels which was multiplied by the established factor of 1.5 to compute a 7.5 percent loss of hearing for the left ear. Appellant's binaural hearing loss was computed by multiplying the lesser loss, 0, by 5 to equal 0, which was added to the greater loss, 7.5, and divided by 6 to arrive at a 1.25 percent binaural hearing loss.

The Board finds that the proper standards were applied to the findings of the June 25, 1996 audiogram. This resulted in a calculation of an eight percent monaural loss on the left or a one percent binaural hearing loss as set forth above. On appeal appellant continues to allege that he has hearing loss in both ears. The evidence of record, however, establishes that while appellant does have a binaural loss, his loss in the right ear is not of a degree to be ratable for schedule award purposes. Furthermore, the Office medical adviser calculated the degree of appellant's binaural loss to determine whether appellant would be entitled to a greater amount of compensation for a monaural loss or a binaural loss. The Federal Employees' Compensation Act provides that for a complete loss of hearing of one ear 52 weeks of compensation is payable. For a total, 100 percent, hearing loss in both ears an employee shall receive a maximum of 200 weeks compensation.⁴ Accordingly, the amount payable for an 1.25 percent binaural hearing loss would be 1.25 percent of 200 weeks or 2.5 weeks of compensation. Thus, appellant's entitlement calculated for monaural loss, 8 percent of 52 weeks of compensation which equals

¹ The A.M.A., *Guides* points out that losses below an average of 25 decibels is deducted as it does not result in impairment in the ability to hear everyday sounds under everyday listening conditions; see A.M.A., *Guides* 224 (4th ed. 1993).

² FECA Program Memorandum No. 272 (issued February 24, 1986).

³ See *Danniel C. Goings*, 37 ECAB 781 (1986).

⁴ See *Arthur E. Anderson*, 43 ECAB 691 (1992).

4.16 weeks of compensation, entitled appellant to a greater schedule award. The Office therefore properly calculated that appellant had an eight percent hearing loss of the left ear and paid compensation for the period June 25 to July 24, 1996.

The decisions of the Office of Workers' Compensation Programs dated October 31 and October 4, 1996 are hereby affirmed.

Dated, Washington, D.C.
September 1, 1998

Michael J. Walsh
Chairman

George E. Rivers
Member

David S. Gerson
Member