

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PETER J. HARO and NATIONAL AERONAUTICS & SPACE
ADMINISTRATION, AMES RESEARCH CENTER, Moffett Field, Calif.

*Docket No. 97-2392; Submitted on the Record;
Issued May 3, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a ratable hearing loss as a result of his accepted employment injury.

On February 2, 1996 appellant, then a 59-year-old former employee, filed a claim alleging that he had sustained hearing loss as a result of employment factors.¹

On October 1, 1996 the Office of Workers' Compensation Programs referred appellant to Dr. William T. Chen, Board-certified in otolaryngology, for an audiologic and otologic evaluation.

In a November 11, 1996 medical report, Dr. Chen stated that he had reviewed appellant's audiogram taken on November 8, 1996 and that he had "mild, but gentle, (bilateral) sensorineural hearing loss," which was "probably contributed to by exposure to noise during his employment."

On December 19, 1996 the Office accepted appellant's claim for hearing loss causally related to employment factors. The Office advised appellant that he could file a claim for a schedule award based on his accepted hearing loss injury. On January 9, 1997 appellant filed a claim for a schedule award based on his accepted hearing loss.

On January 15, 1997 the Office medical adviser reviewed appellant's medical record and noted that the audiologic evaluation did not include the puretone threshold at the 3,000 hertz level and recommended that it be included in order to calculate appellant's percentage of hearing loss.

¹ Appellant retired effective January 3, 1996.

In a supplemental medical report dated March 14, 1997, Dr. Chen stated that the audiogram performed on March 10, 1997 by audiologist Denise L. Martin showed a bilateral high frequency sensory neural hearing loss. The audiogram indicated that testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 10, 10, 35 and 35 and testing for the left ear revealed decibel losses of 10, 10, 30 and 35 decibels. Dr. Chen noted that the test reliability was good.²

On May 12, 1997 the Office medical adviser reviewed Dr. Chen's March 14, 1997 medical report and the statement of accepted facts.³ He stated that for schedule award purposes using the March 10, 1997 audiogram, appellant had zero percent monaural hearing loss in the left ear and a zero percent monaural hearing loss in the right ear for a zero percent binaural neurosensory hearing loss.

By decision dated June 4, 1997, the Office advised appellant that his claim had been accepted for a hearing loss due to his employment-related noise exposure. The Office informed appellant that the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fourth edition 1993) had been applied to the medical evidence of record and it had been determined that appellant's hearing loss was not severe enough to be considered ratable.

The Board finds that the medical evidence establishes that appellant does not have a ratable hearing loss under the Federal Employees' Compensation Act.

The Office currently evaluates industrial hearing losses in accordance with the standards contained in the A.M.A., *Guides*. The decibel losses at the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second are added up for each ear, averaged and a "fence" of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. The binaural hearing loss is determined by calculating the loss in each ear using the formula for monaural loss. The lesser hearing loss is multiplied by five, then added to the greater hearing loss and the total is divided by six to arrive at the amount of the binaural hearing loss. The Board has concurred in the Office's use of this standard for evaluating hearing loss claims for schedule award purposes.⁴

In applying the Office's standardized procedures to the March 10, 1997 audiogram performed by an audiologist, testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 10, 10, 35 and 35. These decibel losses were

² The Board notes that in his initial November 11, 1996 report, Dr. Chen noted that "[T]he audiogram performed meets the calibration and accreditation standards of the Professional Services Board of the ASHA." The March 10, 1997 audiogram result chart contains the annotation "ANSI standard April 1996, due April 1997."

³ In its statement of accepted facts, the Office noted that it accepted that appellant had been exposed to noise in excess of 85 decibels while employed by the federal government from 1958 to 1996.

⁴ *James A. England*, 47 ECAB 115 (1995).

totaled at 90 and divided by 4 to obtain the average hearing loss at those cycles of 22.50 decibels. The average of 22.50 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 decibels for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 10, 10, 30 and 35. These decibel losses were totaled at 85 and divided by 4 to obtain the average hearing loss at those cycles of 21.25 decibels. The average of 21.25 was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 decibels for the left ear. Accordingly, pursuant to the Office's standardized procedures, the Office properly determined that appellant had a nonratable hearing loss in both ears.

The Board finds that the Office applied the proper standards to the findings obtained by audiologist Ms. Martin. This resulted in a calculation of a zero percent monaural and binaural hearing loss under these standards and, therefore, a nonratable hearing loss.

The decision of the Office of Workers' Compensation Programs dated June 4, 1997 is hereby affirmed.

Dated, Washington, D.C.
May 3, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member