

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES H. SANFORD and DEPARTMENT OF THE AIR FORCE,  
HOMESTEAD AIR FORCE BASE, FL

*Docket No. 98-1317; Submitted on the Record;  
Issued September 23, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
WILLIE T.C. THOMAS

The issue is whether appellant has a ratable hearing loss for which he is entitled to a schedule award.

On May 8, 1997 appellant, then a 50-year-old quality assurance specialist, filed an occupational disease claim for hearing loss. He stated that he first became aware of the hearing loss in June 1994 and that his hearing had gotten progressively worse as he had been exposed to hazardous noise his entire adult life. Appellant did not stop work. The Office of Workers' Compensation Programs accepted that appellant had employment-related hearing loss on November 21, 1997. On December 17, 1997 appellant filed a claim for a schedule award.

The Office referred appellant to Dr. Ronald A. Burke, a Board-certified otolaryngologist, for examination, including audiometric testing. The Office indicated that appellant was exposed to noise while working for 22 years with jet aircraft and was also exposed to noise from hydraulic pumps and while working in shuttle refurbishing. In a report dated October 16, 1997, Dr. Burke discussed appellant's physical and work history. He diagnosed high frequency sensorineural hearing loss that was partially noise induced. Dr. Burke found that amplification would not benefit appellant at this time, and appellant should avoid noise exposure at hazardous levels. Dr. Burke reported that the testing for the left ear at 500, 1,000, 2,000 and 3,000 cycles per second (cps) showed decibel losses of 5, 5, 25, and 50 by air conduction, respectively, while testing for the right ear revealed air conduction decibel losses of 0, 0, 10, and 45 respectively. Dr. Burke compared this study to appellant's 1972 audiogram to conclude that appellant had a high frequency sensorineural hearing loss.

The Office referred Dr. Burke's report to an Office medical adviser for review. In a report dated November 10, 1997, the Office medical adviser used the air conduction decibel losses for the right and left ear to determine whether appellant had a ratable hearing loss. The Office medical adviser found that the hearing loss measured frequencies for the right ear equaled a total of 55 which was divided by 4 for an average hearing loss of 13.75 decibels, and that the 4

measured frequencies for the left ear totaled 85 which was divided by 4 for an average hearing loss of 21.25 decibels. After deducting the 25 decibel fence from each average, the Office medical adviser concluded that appellant had a 0 percent bilateral sensorineural hearing loss.

In a decision dated January 5, 1998, the Office found that appellant's hearing loss did not exceed the Office's standards for hearing loss and therefore he was not entitled to a schedule award.

The Board finds that appellant does not have a ratable hearing loss for which he would be entitled to a schedule award.

Section 8107(c) of the Federal Employees' Compensation Act<sup>1</sup> specifies the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage of loss of a member, function or organ shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.<sup>2</sup> 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.<sup>3</sup>

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, using the hearing levels recorded at frequencies of 500, 1,000, 2,000, and 3,000 cps. The losses at each frequency are added up and averaged and 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. Each amount is then multiplied by 1.5. The amount of the better ear is multiplied by 5 and added to the amount from the worse ear. The entire amount is then divided by 6 to arrive at a percentage of binaural hearing loss.<sup>4</sup> The Board has concurred in the Office's adoption of this standard for evaluation hearing loss for schedule award purposes.<sup>5</sup>

The Office medical adviser properly applied the Office standard procedures to the audiogram obtained by Dr. Burke. After adding the 4 measured frequencies for the right and left ears, he found hearing losses of 85 and 55 decibels, respectively. He then properly divided the hearing losses by 4 to find a total hearing loss of 21.25 in the right ear and 13.75 in the left ear. Contrary to appellant's contention on appeal, the Office medical adviser's subtraction of the 25 decibel fence was also consistent with Office standard procedures and the A.M.A., *Guides*. Thus, the results of the October 16, 1997 audiogram, as evaluated by the Office medical adviser

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<sup>1</sup> 5 U.S.C. §§ 8101-8193, § 8107(c).

<sup>2</sup> *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

<sup>3</sup> *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

<sup>4</sup> p. 224 (4th ed. 1995).

<sup>5</sup> See *Goings*, *supra* note 2.

under the applicable standards, establish that appellant does not have a ratable hearing loss and he is not entitled to a schedule award.

The decision of the Office of Workers' Compensation Programs dated January 5, 1998 is hereby affirmed.

Dated, Washington, D.C.  
September 23, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member