U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID FISHBACK and DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, NATIONAL INTERAGENCY FIRE CENTER, Boise, ID

Docket No. 99-2092; Submitted on the Record;
Issued October 2, 2000

DECISION and ORDER

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

The issue is whether appellant had more than a three percent binaural (both ears) loss of hearing, for which he received a schedule award.

On October 14, 1998 the Office of Workers' Compensation Program accepted appellant's claim for occupational illness for hearing loss in both ears.

In a medical report dated September 23, 1998, Dr. Arthur C. Jones, a Board-certified otolaryngologist, indicated that appellant had high frequency neurosensory hearing loss secondary to noise exposure. An audiogram of the same date accompanied Dr. Jones' report, indicating testing at 500, 1,000, 2,000 and 3,000 hertz (Hz) and revealed in the right ear losses of 15, 5, 25 and 70 decibels (dBs) respectively; and in the left ear, loses of 10, 10, 15 and 70 dBs respectively.

On October 9, 1998 the Office medical adviser applied the Office's standardized procedures to the September 23, 1998 audiogram obtained by Dr. Jones, and determined that appellant suffered from a 2.5 percent binaural hearing loss.

On January 7, 1999 the Office granted appellant a schedule award for a three percent binaural loss of hearing. The period of the award ran for six weeks from September 23 to November 3, 1998.

The Board finds that appellant had no more than a three percent binaural loss of hearing for which he received a schedule award.

The Federal Employees' Compensation Act schedule award provisions set forth the number of weeks of compensation to be paid for permanent loss of use of the members of the body that are listed in the schedule.[1] The Act, however, does not specify the manner in which

[1] 5 U.S.C. § 8107.

the percentage loss of a member shall be determined. The method used in making such a determination is a matter, which rests, in the sound discretion of the Office.[2] However, as a matter of administrative practice, the Board has stated: "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."[3]

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),[4] using the frequencies of 500, 1,000, 2,000 and 3,000 Hz. 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. 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, and then added to the greater loss and the total is divided by six, to arrive at the amount of the binaural hearing loss.[5] The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.[6]

In the present case, the district medical adviser determined that appellant had a 2.5 percent binaural hearing loss based on the audiogram of record dated September 23, 1998. In his report, the district medical adviser determined that the frequency levels recorded at 500, 1,000, 2000 and 3,000 Hz for the right ear, 15, 5, 25 and 70 respectively, totaled 115 decibels which divided by 4 yielded the average hearing loss at those frequencies of 28.75 decibels. He reduced the average 28.75 decibels by 25 decibels to equal 3.75, which he multiplied by the established factor of 1.5 to compute a 5.625 monaural loss in the right ear. The district medical adviser totaled the decibel losses at the above-mentioned frequencies for the left ear, 10, 10, 15 and 70 decibels respectively, at 105 and divided by 4 to obtain the average hearing loss at those frequencies of 26.25 decibels. He reduced 26.25 decibels by the 25 decibels "fence" to equal 1.875, which he multiplied by the established factor of 1.5 to compute a 1.875 monaural loss in the left ear of 1.875 decibels. The district medical adviser then took the lesser of the two monaural losses, *i.e.*, the 1.875 loss in the left ear, and multiplied it by the established figure of 5 and added it to the 5.625 decibel loss in the right ear and divided this figure by 6 to arrive at a 2.5 percent binaural hearing loss. The Board finds that the district medical adviser applied the proper standards to the September 23, 1998 audiogram results and properly determined that appellant had a 2.5 percent binaural hearing loss, which is no more than the 3 percent binaural hearing loss for which the Office awarded the schedule award. Appellant has not submitted any evidence to the contrary.

---

[2] *Richard Larry Enders*, 48 ECAB 184, 185-86 (1996).

[3] *Id.*

[4] *George L. Cooper*, 40 ECAB 296, 302 (1988).

[5] FECA Program Memorandum No. 272 (issued February 24, 1986).

[6] *Danniel C. Goings*, 37 ECAB 781 (1986).

The decision of the Office of Workers' Compensation Programs dated January 7, 1999 is affirmed.

Dated, Washington, DC
October 2, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member