

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JERRY L. LIVESAY and TENNESSEE VALLEY AUTHORITY,
JOHN SEVIER FOSSIL PLANT, Rogersville, TN

*Docket No. 01-938; Submitted on the Record;
Issued December 10, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that he has greater than a four percent permanent monaural hearing loss in his left ear, for which he received a schedule award.

Appellant, a 49-year-old mechanical maintenance machinist, filed a claim for benefits on May 25, 1999, claiming that he sustained a hearing loss caused by factors of his employment, and that he became aware that this injury was causally related to his employment on November 27, 1973.

By letters dated April 20, 2000, the Office of Workers' Compensation Programs referred appellant and a statement of accepted facts to Dr. Frank B. Little, a Board-certified otolaryngologist for an audiologic and otologic evaluation of appellant.

In a report dated May 18, 2000, Dr. Little noted findings on audiological evaluation based on a May 18, 2000 audiogram. At the frequencies of 500, 1,000, 2,000 and 3,000 hertz, the following thresholds were reported: right ear -- 25, 20, 20 and 25 decibels: left ear -- 20, 20, 20 and 50 decibels. Dr. Little concluded that appellant had a high frequency loss caused by exposure to noise at his federal employment.

In a memorandum dated June 2, 2000, an Office medical adviser, relying on Dr. Little's audiogram results and calculations, determined that appellant had a 0 percent hearing loss in his right ear and a 3.75 hearing loss in his left ear, which he rounded off to a 4 percent permanent monaural hearing loss.

On January 26, 2001 the Office granted appellant a schedule award for a 4 percent permanent monaural hearing loss for the period May 18 to June 1, 2000, for a total of 2.08 weeks of compensation.

The Board finds that appellant has not established that he has greater than a four percent permanent monaural hearing loss, for which he received a schedule award.

The schedule award provisions of the Federal Employees' Compensation Act provide for compensation to employees sustaining impairment from loss or loss of use of, specified members of the body.¹ The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office.² For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office as a standard for evaluation of scheduled losses and the Board has concurred in such adoption.³

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz. The losses at each frequency are added up and averaged and a "fence" of 25 decibels is deduced since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions.⁴ Then the remaining amount is multiplied by 1.5 to arrive at the percentage loss 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 binaural hearing loss.⁵

In this case, the case was referred to an Office medical adviser to apply the Office's standardized procedures to the May 18, 2000 audiogram performed for Dr. Little. According to the Office's standardized procedures, testing at frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed hearing losses in the right ear of 25, 20, 20 and 25 decibels respectively. These decibels, totaled to 90 and divided by 4, obtained an average hearing loss at those cycles of 22.50 decibels. The average of 22.50 decibels, when reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals a total of less than 0 decibels, amounting to a 0 percent hearing loss in the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibel losses of 20, 20, 20 and 50 respectively. These decibels amounted to 110, which, when divided by 4, obtains an average hearing loss at those cycles of 27.50 decibels. The average of 27.50 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 2.50, which when multiplied by the established factor of 1.5 amounts to a 3.75 percent hearing loss in the left ear. The Office medical adviser then rounded off this figure to arrive at a four percent monaural hearing loss.

The Board notes that the Office medical adviser properly used the applicable standards of the A.M.A., *Guides*, to determine that appellant has a four percent total monaural hearing loss causally related to his federal employment. The Board therefore affirms the January 26, 2001

¹ 5 U.S.C. § 8107.

² *Danniel C. Goings*, 37 ECAB 781, 783 (1986); *Richard Beggs*, 28 ECAB 387, 390-91 (1977).

³ *See Luis Chapa, Jr.*, 41 ECAB 159, 167 (1989).

⁴ A.M.A., *Guides*, page 166 (3d ed. 1988).

⁵ *Id.*; *see also Danniel C. Goings*, *supra* note 2.

Office decision finding that appellant is entitled to a schedule award of no greater than a four percent permanent monaural hearing loss in his left ear.

The January 26, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
December 10, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member