

**United States Department of Labor
Employees' Compensation Appeals Board**

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LOUIS M. STADEM, Appellant)	
)	
and)	Docket No. 04-0013
)	Issued: January 22, 2004
DEPARTMENT OF THE AIR FORCE,)	
ELMENDORF AIR FORCE BASE, AK,)	
Employer)	
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<i>Appearances:</i>	<i>Case Submitted on the Record</i>
<i>Louis M. Stadem, pro se</i>	
<i>Office of Solicitor, for the Director</i>	

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On September 30, 2003 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated April 11, 2003. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant is entitled to a schedule award for his work-related binaural hearing loss.

FACTUAL HISTORY

On August 5, 2002 appellant, then a 60-year-old electronics mechanic, filed a notice of occupational disease alleging that his hearing loss was caused by factors of his federal employment.¹ Appellant's claim was accompanied by the employing

¹ Appellant retired on August 23, 2002.

establishment's position description and an April 11, 2002 audiogram that showed severe hearing loss at 3,000 decibels.

In an attachment, appellant stated that he first noticed ringing in his ears in 1967 while working as an aircraft instrument mechanic on the flight line at Elmendorf Air Force Base. He was reassigned away from hazardous noise exposure from March 1970 to January 1972. From January to September 1972, he was exposed to daily forklift and vehicle noise as a material handler. Appellant did not notice an adverse effect on his hearing during this time. From September 1972 to December 1984, he worked as an electrician and was exposed to frequent jet aircraft operations and loud klaxon bells which signaled hanger door operations. From December 1984 to August 2002, he was an electrical industrial controls mechanic in the alarm shop which exposed him to high output fire alarm horns, bells and sirens. He noticed difficulty in hearing high-frequency noises during this time.

On December 17, 2002 the Office referred appellant to Dr. David D. Beal, a Board-certified otolaryngologist, for an evaluation to determine whether he had a work-related hearing loss. The Office attached a statement of accepted facts, an outline for an otologic evaluation and a list of specific questions.

In a report dated January 9, 2003, Dr. Beal stated that, based on an audiogram test performed on that date, appellant had a work-related binaural hearing loss but that it was not ratable for schedule award purposes. Audiometric testing that day revealed the following decibels losses at 500, 1,000, 2,000 and 3,000 cycles per second: 0, 5, 10 and 75 decibels on the right and 5, 5, 10 and 80 decibels on the left. Dr. Beal noted, however, that appellant's sensorineural hearing loss from 3,000 decibels was extreme which indicated hearing loss secondary to acoustic trauma. He also stated that appellant's tinnitus was related to his hearing loss. The report also noted that further hearing aid evaluation was advised.

On January 27, 2003 the Office accepted appellant's binaural hearing loss. The Office advised appellant that Dr. Beal recommended hearing aids and advised him regarding further testing in order to determine whether hearing aids would be authorized.

On February 17, 2003 appellant filed a claim for a schedule award. In a report dated April 4, 2003, the Office medical adviser stated that appellant had a zero percent binaural hearing loss. He also checked a box indicating that hearing aids were authorized. By decision dated April 11, 2003, the Office denied appellant's claim for a schedule award.

LEGAL PRECEDENT

The schedule award provisions of the Federal Employees' Compensation Act² provide for compensation to employees sustaining impairment from loss, or loss of use

² 5 U.S.C. §§ 8101-8193.

of, specified members of the body. 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 a determination is a matter which rests in the sound discretion of the Office. 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 schedule losses and the Board has concurred in such adoption.³

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*. Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged. Then, the “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 speech under everyday conditions. The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing 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. The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.⁴

ANALYSIS

In this case, the Office medical adviser properly applied the Office’s standardized procedures to the January 9, 2003 audiogram performed for Dr. Beal. Testing for the right ear revealed decibel losses of 0, 5, 10 and 75 respectively. These decibel losses were totaled at 90 and divided by 4 to obtain the average hearing loss at those cycles of 22.5. The average of 22.5 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 decibels for the right ear which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss in the right ear.

Testing for the left ear revealed decibel losses of 5, 5, 10 and 80 decibels respectively. These decibel losses were totaled at 100 decibels and divided by 4 to obtain the average hearing loss at those cycles of 25 decibels. The average of 25 decibels was then reduced by 25 decibels to equal 0 decibels for the left ear which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss in the left ear. The result is a zero percent binaural hearing loss.

The medical evidence thus reveals that, after applying the relevant standards of the A.M.A., *Guides*, appellant has a zero percent binaural hearing loss.

³ A.M.A., *Guides* (5th ed. 2001); *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

⁴ *Reynaldo R. Lichtenberger*, 52 ECAB 462 (2001).

Regarding the finding that appellant sustained tinnitus, the A.M.A., *Guides* states:

“Tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, add up to five percent for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform activities of daily living.”⁵

As appellant’s hearing loss is not ratable, he is not entitled to the additional award for tinnitus. Therefore, although appellant’s claim for hearing loss was accepted and he is entitled to medical benefits related to this loss, his hearing loss is not now ratable under the Act. Consequently, appellant is not entitled to a schedule award.

CONCLUSION

The Board finds that the Office medical adviser applied the proper standards to the findings stated in the January 9, 2003 audiogram as reviewed by Dr. Beal resulting in a zero percent binaural hearing loss, and that therefore the Office properly denied appellant’s claim for a schedule award. The Board notes that hearing aids were authorized.

⁵ A.M.A., *Guides*, *supra* note 3 at 246.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 11, 2003 be affirmed.⁶

Issued: January 22, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ The Board notes that this case record contains evidence which was submitted subsequent to the Office's April 11, 2003 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).