

as a secretary and was not exposed to loud noise. On April 11, 2006 she filed a claim for a schedule award. On August 11, 2006 the Office accepted appellant's claim for aggravation of binaural noise-induced hearing loss. Appellant submitted copies of audiograms dated 1984 to 1998.

The Office referred appellant to Dr. Meredith Pang, an otolaryngologist, for an examination on July 20, 2006. Dr. Pang found that appellant had mild bilateral high frequency sensorineural hearing loss, slightly worse in the left ear, caused by noise exposure at work. Appellant also complained of ringing in her ears. Audiometric testing between 1984 and 1991 revealed normal hearing thresholds. Between 1992 and 1997 there was a very slight elevation of the hearing thresholds. Audiometric testing performed on July 20, 2006 revealed, at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps): right ear decibels of 20, 30, 30 and 25; left ear decibels of 25, 30, 30 and 50.

On September 15, 2006 an Office medical adviser reviewed the results of the audiometric testing performed for Dr. Pang and applied the Office's standardized procedures. He totaled the decibels of 20, 30, 30 and 25 in the right ear for the frequency levels of 500, 1,000, 2,000 and 3,000 cps at 105 decibels and divided by 4 to obtain the average hearing loss of 26.25 decibels. This average was then reduced by 25 decibels to equal 1.25 decibels which was multiplied by the established factor of 1.5 to compute a 1.9 percent impairment in the right ear. The Office medical adviser totaled the losses of 25, 30, 30 and 50 in the left ear at 135 decibels and divided by 4 to obtain the average hearing loss of 33.75 decibels. This average was then reduced by 25 decibels to equal 8.75 which was multiplied by the established factor of 1.5 to compute a 13.1 percent impairment in the left ear. The Office medical adviser indicated that appellant had a 3.8 percent binaural hearing impairment, according to the standardized Office procedures for determining entitlement to a schedule award.

On March 21, 2007 Dr. David N. Schindler, an otolaryngologist and an Office medical consultant, stated that the October 17, 1996 audiogram should be applied in determining appellant's work-related hearing loss. He noted that her last work-related noise exposure occurred in 1995. Dr. Schindler stated that hearing loss which develops after an individual ceases to be exposed to industrial noise is not causally related to that noise exposure. Using the October 17, 2007 audiogram, he totaled the decibels of 15, 25, 15 and 15 in the right ear for the frequency levels of 500, 1,000, 2,000 and 3,000 cps at 70 decibels and divided by 4 to obtain the average hearing loss of 17.5 decibels. This average was then reduced by 25 decibels to equal 0 decibels which was multiplied by the established factor of 1.5 to compute a 0 percent impairment in the right ear. Dr. Schindler totaled the losses of 25, 25, 25 and 25 in the left ear at 100 decibels and divided by 4 to obtain the average hearing loss of 25 decibels. This average was then reduced by 25 decibels to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent impairment in the left ear. Dr. Schindler indicated that appellant had no ratable binaural impairment, according to the standardized Office procedures for determining entitlement to a schedule award.

By decision dated April 3, 2007, the Office denied appellant's claim for a schedule award on the grounds that she had no ratable hearing loss.

LEGAL PRECEDENT

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. 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. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) has been adopted by the implementing regulation as the appropriate standard for evaluating losses.³

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁴ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁵ 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.⁶ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁷ 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.⁸ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁹

ANALYSIS

Dr. Schindler reviewed the results of the audiometric testing performed on October 17, 1996, following appellant's last noise exposure at work and properly applied the Office's standardized procedures. He totaled the decibels of 15, 25, 15 and 15 in appellant's right ear for the frequency levels of 500, 1,000, 2,000 and 3,000 cps at 70 decibels and divided by 4 to obtain the average hearing loss of 17.5 decibels. This average was then reduced by 25 decibels to equal

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

³ *Id.*

⁴ A.M.A., *Guides* 250 (5th ed. 2001).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Donald E. Stockstad*, 53 ECAB 301 (2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

0 decibels which was multiplied by the established factor of 1.5 to compute a 0 percent impairment in the right ear. Dr. Schindler totaled the losses of 25, 25, 25 and 25 in the left ear at 100 decibels and divided by 4 to obtain the average hearing loss of 25 decibels. This average was then reduced by 25 decibels to equal 0 decibels which was multiplied by the established factor of 1.5 to compute a 0 percent impairment in the left ear. The Board finds that the Office medical consultant correctly determined that appellant had no ratable hearing loss.

On appeal, appellant asserts that she should be compensated for ringing in her ears, a condition called tinnitus. The A.M.A, *Guides* allows for compensation of 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.”¹⁰ The Board has held that there is no basis for paying a schedule award for a condition such as tinnitus unless the medical evidence establishes that the condition caused or contributed to a permanent and ratable loss of hearing under the Act’s schedule award provisions.¹¹ The medical evidence in this case does not establish that she has a tinnitus condition that caused or contributed to a permanent and ratable loss of hearing. Consequently, appellant is not entitled to a schedule award for a tinnitus condition.

CONCLUSION

The Board finds that appellant has no ratable hearing loss entitling her to a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers’ Compensation Programs dated April 3, 2007 is affirmed.

Issued: October 18, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees’ Compensation Appeals Board

David S. Gerson, Judge
Employees’ Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees’ Compensation Appeals Board

¹⁰ A.M.A., *Guides* 246; *Leslie M. Mahin*, 55 ECAB 311 (2004).

¹¹ *Donald A. Larson*, 41 ECAB 947 (1990); *Charles H. Potter*, 39 ECAB 645 (1988).