

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES R. DUSTMAN and DEPARTMENT OF DEFENSE,
72 SUPPORT GROUP/DPCEM, TINKER AIR FORCE BASE, OK

*Docket No. 03-464; Submitted on the Record;
Issued April 25, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has more than a two percent monaural hearing loss, for which he received a schedule award.

The Office of Workers' Compensation Programs accepted appellant's claim for a bilateral noise-induced hearing loss.

In a report dated June 20, 2002, Dr. Richard B. Dawson, a Board-certified otolaryngologist, considered appellant's history of injury, performed a physical examination and reviewed two audiograms, one taken in 1968. Dr. Dawson diagnosed a bilateral high tone sensorineural hearing loss with an increase due to noise during appellant's federal employment. The record contains an audiogram dated June 18, 2002. In a report dated August 30, 2002, the district medical adviser determined that appellant had a two percent monaural loss in the left ear and no hearing loss in the right ear.

By decision dated November 21, 2002, the Office issued appellant a schedule award for a two percent monaural hearing loss.

The Board finds that appellant has no more than a two percent monaural hearing loss.

The schedule award provision of the Federal Employees' Compensation Act¹ provides for compensation to employees sustaining permanent impairment from loss or loss of use of specified members of the body. The Act's compensation schedule 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 does not, however, specify the manner by which the percentage loss of a member, function, or organ shall be determined. The method used in making such a determination is a matter that rests in the sound discretion of the Office.² For consistent results

¹ 5 U.S.C. § 8107 *et seq.*

² *Arthur E. Anderson*, 43 ECAB 691, 697 (1992); *Danniel C. Goings*, 37 ECAB 781, 783 (1986).

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 industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).⁴ 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.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 1.5 to arrive at the percentage of monaural 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 loss.⁸ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.⁹

In a report dated August 30, 2002, the district medical adviser reviewed the results of the most recent audiogram dated June 18, 2002. He determined that the frequency levels recorded at 500, 1,000, 2,000 and 3,000 cycles per second of the left ear, 15, 15, 25 and 50, respectively, totaled 105, which divided by 4 yielded the average hearing loss at those frequencies of 26.25 decibels. The Office medical adviser reduced the 26.25 decibels by the 25 decibel “fence” to equal 1.25. He then multiplied 1.25 by the established factor of 1.5 to obtain a monaural loss in the left ear of 1.9 percent, which was rounded up 2 percent.

The district medical adviser totaled the decibel losses at the applicable frequencies for the right ear, 20, 15, 25 and 35 respectively, at 95, which he divided by 4 to obtain the average hearing loss at those frequencies of 23.75. He subtracted the 25 decibel fence from 23.75 to obtain a hearing impairment of 0 in the right ear. The district medical adviser multiplied 0 by the established factor of 1.5 to obtain a 0 percent monaural loss in the right ear. The Board finds that the district medical adviser applied the proper standards to the June 18, 2002 audiogram results and properly determined that appellant had a two percent monaural loss. Appellant has not submitted any evidence showing that his hearing loss exceeded that percentage. Based on this Office medical adviser’s report, the Office granted the November 21, 2002 schedule awards.

³ *Marco A. Padilla*, 51 ECAB 202, 205 (1999); *Arthur E. Anderson*, *supra* note 2 at 697.

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

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Donald E Stockstad*, 53 ECAB _____ (Docket No. 01-1570, issued January 23, 2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

The November 21, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 25, 2003

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member