



In a statement accompanying his claim, appellant described his noise exposure during the course of his federal employment and stated that the constant ringing in his ears, which he had experienced for approximately five years, continued to worsen.

By letter dated June 30, 2004, the Office advised appellant that the evidence submitted was insufficient to establish his claim and provided him 30 days to provide additional medical evidence.

Appellant submitted 12 audiograms performed by the employing establishment from April 1, 1985 through August 29, 1998. He further submitted a May 17, 2004 summary audiometrics report covering the period August 29, 1998 through May 17, 2004, which included an evaluation that "some hearing loss is noted at the high frequencies."

In a letter dated August 23, 2004, Dr. James H. Bower, a treating physician, stated that he had treated appellant since 1982 and had reviewed the audiological data and work noise exposure record, as well as appellant's relevant noise exposure history. Dr. Bower opined that appellant's chronic symmetric (right slightly greater than left) sensorineural hearing loss was consistent with hair cells of the organ of corti caused by exposure to intense noise in the workplace. He further opined that tinnitus was associated with appellant's sensorineural hearing loss.

The Office referred appellant, together with a statement of accepted facts, to Dr. Clifford N. Steinig, a Board-certified otolaryngologist, for an evaluation to determine the cause and extent of appellant's hearing loss. Dr. Steinig evaluated appellant on October 26, 2004 and submitted a medical report of the same date providing a diagnosis of high frequency sensorineural hearing loss bilaterally due to noise exposure and secondary tinnitus. The results of the October 26, 2004 audiogram accompanied Dr. Steinig's report. Testing of the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed decibel losses of 25, 15, 20 and 25, respectively and in the left ear decibel losses of 20, 20, 15 and 30, respectively. The audiogram further demonstrated speech discrimination scores of 88 percent in both the left and right ears. Dr. Steinig reported that audiometric study was normal through 3,000 cps in the right ear and through 2,000 cps in the left ear, with moderate neurosensory loss in the higher tones; borderline normal speech reception thresholds; and essentially normal speech discrimination. In a November 1, 2004 letter, Dr. Steinig affirmed his opinion that appellant's hearing loss was secondary to his federal civilian employment.

On November 10, 2004 the Office accepted appellant's claim for noise-induced hearing loss, binaural and tinnitus binaural.

In a report dated November 26, 2004, Dr. Kathy Landau Goodman,<sup>1</sup> an audiologist to whom appellants records were referred, indicated that she had reviewed the results of appellant's audiogram, calculated appellant's hearing loss pursuant to Form CA-51 provided by the Office and opined that he had no ratable loss. Appellant's decibel losses for each ear

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<sup>1</sup> Dr. Goodman signed her statement by indicating that she is a Board-certified audiologist; however, her credentials cannot be verified.

were totaled at 85 and divided by 4 to obtain the average hearing loss per cycle of 21.25. The average of 21.25 was then reduced by the 25 decibel fence to equal 0 decibels for both ears. The 0 was then multiplied by 1.25, resulting in a 0 percent loss for both ears.

On December 2, 2004 after reviewing appellant's medical records and Dr. Goodman's November 26, 2004 audiologist report, the district medical director found that appellant reached maximum medical improvement on October 26, 2004 and had a zero percent binaural sensorineural hearing loss for schedule award purposes.

By decision dated December 6, 2004, the Office found that appellant did not sustain a ratable hearing loss and determined that appellant was not entitled to a schedule award under the Federal Employees' Compensation Act.

### **LEGAL PRECEDENT**

The schedule award provision of the Act<sup>2</sup> provides for compensation to employees sustaining permanent loss or loss of use, 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 determination is a matter which results in the sound discretion of the Office. For consistent results and to insure 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* (A.M.A., *Guides*) has been adopted by the Office for evaluating hearing losses.<sup>3</sup>

### **ANALYSIS**

Dr. Goodman and the district medical director properly applied the Office's standardized procedures to the October 26, 2004 audiogram. Testing for the right ear revealed decibel losses of 25, 15, 20 and 25 respectively. These decibel losses were totaled at 85 and divided by 4 to obtain the average hearing loss per cycle of 21.25. The average of 21.25 was then reduced by the 25 decibel fence to equal 0 decibels for the right ear.<sup>4</sup> The 0 figure was multiplied by 1.5 resulting in a 0 percent loss for the right ear. Testing for the left ear revealed decibel losses of 20, 20, 15 and 30 respectively. These decibel losses were totaled at 85 and divided by 4 to obtain the average hearing loss per cycle of 21.25. The average of 21.25 was then reduced by 25 decibels to equal 0 decibels for the left ear. The 0 was multiplied by 1.5,

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> See 20 C.F.R. § 10.404; see also *David W. Ferrall*, 56 ECAB \_\_\_\_ (Docket No. 04-2142, issued February 23, 2005).

<sup>4</sup> The decibel "fence" is subtracted, as it has been shown that the ability to hear everyday sounds under everyday listening conditions is not impaired when the average of the designated hearing levels is 25 decibels or less. See A.M.A., *Guides*.

resulting in a 0 percent loss for the right ear. The Office medical adviser properly found that appellant had a zero percent hearing loss in both ears for schedule award purposes.

The Board finds that the district medical director applied the proper standards to the findings stated in Dr. Steinig's October 26, 2004 report and accompanying audiogram. The result is a zero percent binaural hearing loss in the right and left ears, which is not ratable. Therefore, appellant's hearing loss is not compensable for schedule award purposes.

On appeal appellant notes that he has a constant ringing in both ears. The A.M.A., *Guides* provides for the addition of up to five percent for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform the activities of daily living. In his October 26, 2004 report, Dr. Steinig diagnosed tinnitus due to noise exposure. He further found, however, that appellant had essentially normal speech discrimination. Although appellant contends that he suffers daily from tinnitus, it is for the evaluating physician to integrate any subjective complaints with objective data to estimate the degree of permanent impairment due to tinnitus.<sup>5</sup> Accordingly, the Board finds that appellant is not entitled to an additional award for tinnitus.

#### **CONCLUSION**

The Board finds that appellant has failed to establish that he sustained a ratable hearing loss entitling him to a schedule award.

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<sup>5</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 6, 2004 is affirmed.

Issued: May 19, 2005  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member