

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BILLY L. JONES and DEPARTMENT OF THE AIR FORCE,
McCONNELL AIR FORCE BASE, Wichita, Kans.

*Docket No. 96-2634; Submitted on the Record;
Issued March 20, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant is entitled to a schedule award for a hearing loss due to exposure to noise in the performance of duty.

On December 5, 1995 appellant, then a 55-year-old firefighter filed a claim for a hearing loss due to exposure to noise at work. He indicated that the fire station at the employing establishment was located on the flight line and therefore was constantly exposed to noise from planes taking off or landing. The employing establishment also noted that appellant was exposed to noise from the fire equipment. In a July 18, 1996 decision, the Office of Workers' Compensation Programs accepted appellant's claim for a hearing loss due to employment-related noise exposure. The Office, however, found that appellant was not entitled to a schedule award because his hearing loss was not severe enough to be considered ratable.

The Board finds that appellant is not entitled to a schedule award because he does not have a ratable hearing loss.

Section 8107 of the Federal Employees' Compensation Act¹ 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, however, does not 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 and to ensure equal justice under the law to all claimants, good administrative practice

¹ 5 U.S.C. § 8107(c).

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

necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants.³

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,⁴ using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second (cps). The losses at each frequency are added up and averaged and a “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 sounds under everyday conditions. Each amount is then multiplied by 1.5. The amount of the better ear is multiplied by five and added to the amount from the worse ear. The entire amount is then divided by six to arrive at the percentage of binaural hearing loss.⁵ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss for schedule award purposes.⁶

The Office medical adviser correctly applied the Office’s standard procedures to the audiogram obtained by Dr. Dennis Thakor, a Board-certified otolaryngologist selected by the Office to give an opinion on the cause and extent of appellant’s hearing loss. Testing for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 15, 5, 15 and 50 respectively for a total of 85 decibels. These losses were divided by 4 for an average hearing loss of 21.25 decibels. The average was reduced by 25 decibels (the first 25 decibels are deducted, as explain above) to equal 0 decibels which was multiplied by 1.5 to arrive at a 0 percent loss for the right ear. Testing for the left ear at the same frequencies revealed decibel losses of 5, 5, 15 and 60 decibels respectively for a total of 85 decibels. These losses were divided by 4 for an average hearing loss of 21.25 decibels. The average was reduced by 25 decibels (as explained above) to equal 0 decibels which was multiplied by 1.5 to arrive at a 0 percent loss for the left ear. The application of the Office’s standards to Dr. Thakor’s findings in his examination of wage-earning capacity show that appellant’s hearing loss is not sufficiently severe to entitle him to a schedule award.

³ Henry L. King, 25 ECAB 39 (1973); August M. Buffa, 12 ECAB 324 (1961).

⁴ A.M.A., *Guides*, (4th ed. 1993)

⁵ A.M.A., *Guides*, p. 166 (3d ed. 1987).

⁶ Danniell C. Goings, *supra* note 2.

The decision of the Office of Workers' Compensation Programs, dated July 18, 1996, is hereby affirmed.

Dated, Washington, D.C.
March 20, 1998

George E. Rivers
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member