U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JIMMY D. BEDWELL and DEPARTMENT OF THE ARMY, ARMY CORPS OF ENGINEERS, Mobile, AL

Docket No. 99-2208; Submitted on the Record;
Issued August 21, 2000

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS, MICHAEL E. GROOM

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

On February 8, 1999 appellant filed a notice of occupational disease alleging that he developed a hearing loss due to factors of his federal employment. By decision dated December 7, 1999, the Office of Workers' Compensation Programs accepted that appellant sustained a binaural hearing loss due to occupational noise exposure in his employment, but did not grant appellant a schedule award because his hearing loss was not severe enough to be considered ratable.

Appellant was employed as a survey boat operator with the Army Corp of Engineers for 27 years when he filed his CA-2 form for compensation benefits. Appellant alleged that he worked on boats, dredges, towboats and survey boats in plants that endured a lot of vibration and high noise levels from engines, which resulted in his gradual hearing loss.[1]

Appellant's employment records include a certificate of medical examination dated December 13, 1971, which indicated that appellant had normal hearing when he began federal employment. Appellant's employment records also establish that audiograms were performed on July 9, 1990, November 6, 1992, March 11, 1994 and January 14, 1999. A January 21, 1991 audiological report provided frequency levels through 6,000 Hertz (Hz) but provided no comment as to the findings except that appellant should continue to wear hearing protection.

The Office referred appellant to Dr. John Keebler, a Board-certified otolarygologist, for otologic evaluation and examination. The Office provided Dr. Keebler with a statement of

[1] On the reverse side of the claim form, appellant's supervisor indicated that appellant was last exposed to high noise levels on September 9, 1998 as he had been assigned to light-duty tasks of a clerical nature due to a knee condition.

accepted facts, available exposure information and copies of relevant medical reports and audiograms. Dr. Keebler diagnosed appellant on March 23, 1999 with a sensorineural hearing loss due to work-related noise exposure. Upon receipt of Dr. Keebler's March 23, 1999 report and audiogram performed at his request, on April 7, 1999 an Office medical adviser applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment*[2] to the March 23, 1999 audiogram.

By decision dated June 7, 1999, the Office denied appellant's claim for a schedule award on the grounds that his hearing loss was not severe enough to be considered ratable. The Office determined, however, that appellant was entitled to medical benefits for the effects of his injury, including hearing aids.

The Board has duly reviewed the case on appeal and finds that appellant is not entitled to a schedule award for his employment-related hearing loss.

The schedule award provisions of the Federal Employees Compensation Act[3] set forth the number of weeks of compensation to be paid for permanent loss of use of the members listed in the schedule. 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 determinations is a matter, which rests in the sound discretion of the Office. However, as a matter of administrative practice and to ensure consistent results to all claimants, the Office has adopted and the Board has approved of the A.M.A., *Guides* as the uniform standard applicable to all claimants.[4]

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the following frequency levels: 500, 1,000, 2,000 and 3,000 Hz. The losses at each frequency are added up and averaged and a fence of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions.[5] The remaining amount is multiplied by 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.[6]

The Office medical adviser properly applied the standardized procedures to the March 23, 1999 audiogram. Testing of appellant's left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed decibel losses of 15, 10, 10 and 45 totaling 80 decibels. The total of 80 decibels was then divided by 4 to obtain the average hearing loss at those cycles of 20 decibels. The average of 20 decibels was then reduced by 25 decibels to equal 0, which was

[2] A.M.A., *Guides* (4th ed. rev., 1993)

[3] 5 U.S.C. § 8107; *see generally* 5 U.S.C. §§ 8101-8193.

[4] *Jimmy B. Newell*, 39 ECAB 181 (1987).

[5] A.M.A., *Guides* at 224.

[6] *Id*; *see also Danniel C. Goings*, 37 ECAB 781, 784 (1986).

multiplied by the established factor of 1.5, which computed a 0 percent hearing loss for the left ear. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed decibel losses of 10, 10, 10 and 40 totaling 70 decibels. The total of 70 decibels was then divided by 4 to obtain the average hearing loss at those cycles of 17.50 decibels. The average of 17.50 decibels was then reduced by 25 decibels to equal 0, which was multiplied by the established factor of 1.5, which computed a 0 percent hearing loss for the right ear. Accordingly, the Office medical adviser properly found that appellant had nonratable hearing loss in both ears.

The decision of the Office of Workers' Compensation Programs dated June 7, 1999 is affirmed.

Dated, Washington, D.C.
August 21, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member