

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LEWIS P. ROBERTSON and DEPARTMENT OF ENERGY,  
TRANSPORTATION SAFEGUARDS DIVISION-PANTEX COURIER  
SECTION, Amarillo, TX

*Docket No. 00-12; Submitted on the Record;  
Issued September 19, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

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

In a decision dated September 13, 1999, the Office of Workers' Compensation Programs awarded appellant a schedule award for a four percent monaural hearing loss of the right ear. This determination was based upon the July 15, 1999 calculation of the Office's medical adviser, which in turn, was made on the basis of the June 22, 1999 audiological evaluation and report submitted by Dr. Nicholas J. Rowley, a Board-certified otolaryngologist and an Office referral physician. The Office awarded compensation for a period of 2.08 weeks, beginning on June 22, 1999 and continuing through July 6, 1999.

The Board has duly reviewed the evidence contained in the case record presented on appeal and finds that appellant has no more than a four percent monaural hearing loss.

Section 8107 of the Federal Employees' Compensation Act<sup>1</sup> sets forth 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 of determining this percentage rests in the sound discretion of the Office.<sup>2</sup> To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.<sup>3</sup>

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<sup>1</sup> 5 U.S.C. § 8107.

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

<sup>3</sup> *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

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<sup>th</sup> ed. 1993). Utilizing the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 hertz, 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.<sup>4</sup> The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss.<sup>5</sup> The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.<sup>6</sup>

In reviewing appellant’s June 15, 1999 audiogram, the frequency levels recorded at 500, 1,000, 2,000 and 3,000 hertz for the right ear reveal decibel losses of 20, 30, 25 and 35, respectively, for a total of 110 decibels. When this figure is divided by 4, the result is an average hearing loss of 27.5 decibels. The average loss of 27.5 is reduced by 25 decibels to equal 2.5 which when multiplied by the established factor of 1.5, results in a 3.75 percent monaural hearing loss for the right ear.<sup>7</sup> Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibel losses of 0, 0, 5 and 25 decibels respectively, for a total of 30 decibels. Utilizing the same above-noted formula results in a 0 percent monaural hearing loss for the left ear.<sup>8</sup> Consequently, the reliable evidence of record does not establish that appellant has greater than a four percent monaural loss of hearing.

A schedule award under the Act is paid for permanent impairment involving the loss or loss of use of certain members of the body. The schedule award provides for the payment of compensation for a specific number of weeks as prescribed in the statute.<sup>9</sup> With respect to schedule awards for hearing impairments, the pertinent provision of the Act provides that for a total, or 100 percent loss of hearing in one ear, an employee shall receive 52 weeks’ compensation.<sup>10</sup> In the instant case, appellant does not have a total, or 100 percent monaural hearing loss, but rather at most a 4 percent monaural hearing loss, which the Office has determined was employment related. As appellant has no more than a 4 percent loss of use of his right ear, he is entitled to 4 percent of the 52 weeks of compensation, which is 2.08 weeks. The Office, therefore, properly determined the number of weeks of compensation for which appellant is entitled under the schedule award.

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<sup>4</sup> See A.M.A., *Guides* 224 (4<sup>th</sup> ed. 1993); see also *Kenneth T. Esther*, 25 ECAB 335; *Terry A. Wethington*, 25 ECAB 247.

<sup>5</sup> FECA Program Memorandum No. 272 (issued February 24, 1986).

<sup>6</sup> *Danniel C. Goings*, *supra* note 2.

<sup>7</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4b(2)(b) (September 1994).

<sup>8</sup> *Id.*

<sup>9</sup> 5 U.S.C. § 8107.

<sup>10</sup> 5 U.S.C. § 8107(c)(13)(A).

The September 13, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
September 19, 2000

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member