

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WILLIAM B. HURST and DEPARTMENT OF THE ARMY,  
CORPS OF ENGINEERS, GREENUP LOCK & DAM, Greenup, KY

*Docket No. 01-745; Submitted on the Record;  
Issued November 29, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant sustained more than a six percent binaural hearing loss for which he was issued a schedule award.

By letter dated October 14, 1999, the Office of Workers' Compensation Programs referred appellant, along with a statement of accepted facts, to Dr. Charles Abraham for a complete audiologic and otologic evaluation.<sup>1</sup>

An audiogram dated November 8, 1999, indicated testing at 500, 1,000, 2,000 and 3,000 hertz and revealed hearing loss levels of 15, 10, 30 and 65 decibels in the right ear and 15, 10, 30 and 60 decibels in the left ear.

In his report dated the same day, Dr. Abraham found that appellant sustained work-related sensorineural hearing loss. On November 17, 1999 the Office accepted the claim for bilateral hearing loss and approved hearing aids and accessories as needed.

On February 16, 2000 the employing establishment forwarded appellant's claim for a schedule award.

In a report dated October 16, 2000, an Office medical adviser calculated appellant's percentage of hearing loss as 7.5 percent monaural loss in the right ear, 5.63 percent monaural loss in the left ear for a total of 6 percent binaural loss (rounded up from 5.94 percent).

In a decision dated December 8, 2000, the Office issued a schedule award for a six percent loss of binaural hearing for the period November 8, 1999 to January 30, 2000.

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<sup>1</sup> Appellant alleged that he worked as a sandblaster and welder from 1973 to 1993 and that he was not issued ear plugs until early 1980.

The Board finds that appellant has sustained no more than a six percent binaural hearing loss for which he was issued a schedule award.

The Federal Employees' Compensation Act schedule award provisions set forth the number of weeks' compensation to be paid for permanent loss of use of the members of the body that are listed in the schedule.<sup>2</sup> 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 a determination is a matter which rests in the sound discretion of the Office.<sup>3</sup> However, as a matter of administrative practice, the Board has stated: "For consistent results 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."<sup>4</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>8</sup> The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by 5, then added to the greater loss and the total is divided by 6 to arrive at the amount of the binaural hearing loss.<sup>9</sup>

The Office medical adviser applied the Office's standardized procedures to the November 8, 1999 audiogram performed for Dr. Abraham. Testing for the right ear revealed decibel losses of 15, 10, 30 and 65 respectively. These decibel losses were totaled at 120 and divided by 4 to obtain the average hearing loss at those cycles of 30. The average of 30 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 5 decibels for the right ear which was multiplied by the established factor 1.5 to compute a 7.5 percent loss of hearing for the right ear. Testing for the left ear at frequency levels of 500, 1,000, 2,000 and 3,000 revealed decibel losses of 15, 10, 30 and 60 decibels respectively. These decibel losses were totaled at 115 decibels and divided by 4 to obtain the average hearing loss at those cycles of 28.75 decibels. The average of 28.75 decibels was then reduced by 25 decibels

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<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> *Kenneth E. Leone*, 46 ECAB 133 (1994).

<sup>4</sup> *Id.*

<sup>5</sup> 20 C.F.R. § 10.404 (1999).

<sup>6</sup> A.M.A., *Guides* 224 (4<sup>th</sup> ed. 1993).

<sup>7</sup> *Id.*

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

<sup>9</sup> *Id.*

(the first 25 decibels were discounted as discussed above) to equal 3.75 decibels which was multiplied by the established factor 1.5 to compute a 5.63 percent loss of hearing for the left ear. The Office medical adviser next multiplied the monaural loss for the left ear by five and added that figure with the monaural loss for the right ear. The sum was then correctly divided by 6 to arrive at 5.94 percent binaural loss and rounded off to 6 percent binaural hearing loss. Thus, the Board concludes that the Office properly awarded appellant a 6 percent bilateral hearing loss causally related to exposure to hazardous noise in his federal employment.

The schedule award provisions of the Act set forth the number of weeks of compensation to be paid for permanent loss of use of the member listed in the schedule. Under 5 U.S.C. § 8107, a claimant is entitled to basic compensation for complete loss of hearing in both ears for 200 weeks at the rate of  $66 \frac{2}{3}$  percent of his monthly pay. As appellant does not suffer from complete hearing loss in both ears, the total available weeks of compensation (200) is multiplied by his percentage (.06) of bilateral hearing loss ( $200 \times .06 = 12$ ) to arrive at 12 weeks of compensation.<sup>10</sup>

The December 8, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
November 29, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

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