

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RODNEY E. LYNCHARD and DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS, Portland, OR

*Docket No. 02-911; Submitted on the Record;
Issued September 13, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant has more than a nine percent monaural loss in the right ear for which he received a schedule award.

The Board has duly reviewed the case record and concludes that appellant did not establish that he has more than a nine percent monaural loss in the right ear for which he received a schedule award.

On January 22, 2000 appellant, then a 46-year-old power plant shift operator, filed a claim for a hearing loss which the Office of Workers' Compensation Programs accepted.

The schedule award provisions of the Federal Employees' Compensation Act¹ provides for compensation to employees sustaining permanent impairment from loss or loss of use of specified members of the body. The Act's compensation schedule 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 does not, however, 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 necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants.³

¹ 5 U.S.C. § 8107 *et seq.*

² *Arthur E. Anderson*, 43 ECAB 691, 697 (1992); *Daniel C. Goings*, 37 ECAB 781, 783 (1986).

³ *Marco A. Padilla*, 51 ECAB ____ (Docket No. 98-1296, issued December 6, 1969); *Arthur E. Anderson*, *supra* note 2 at 697.

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.⁴ 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.⁵ 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.⁶ The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural loss.⁷ 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 loss.⁸ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.⁹

In this case, in a report dated December 15, 2000, the Office medical adviser reviewed the results of the most recent audiogram dated November 17, 2000. He determined that on the November 17, 2000 audiogram the frequency levels recorded at 500, 1,000, 2,000 and 3,000 cycles per second of the right ear, 10, 10, 45 and 60 decibels respectively, totaled 125 which divided by 4 yielded the average hearing loss at those frequencies of 31.25 decibels. The Office medical adviser reduced the 31.25 decibels by the 25 decibel “fence” to equal 6.25. He then multiplied 1.25 by the established factor of 1.5 to obtain a monaural loss in the right ear of 9.38 percent.

The Office medical adviser totaled the decibel losses at the above-mentioned frequencies for the left ear, 15, 15, 20 and 45 decibels respectively, at 95 which he divided by 4 to obtain the average hearing loss at those frequencies of 23.75. He subtracted the 25 decibel fence from 23.75 to obtain a hearing impairment of zero in the left ear. The Office medical adviser then multiplied zero by 5, added it to the 9.38 monaural loss in the right ear and divided the sum by 6 to obtain a binaural loss of 2 percent. The Board finds that the Office medical adviser applied the proper standards to the November 17, 2000 audiogram and properly determined that appellant had a 9.38 monaural loss, or when rounded off, a 9 percent monaural loss in the right ear and a 0 percent loss in the left ear.¹⁰

⁴ A.M.A., *Guides* at 250 (5th ed. 2001).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Donald E. Stockstad*, 53 ECAB ____ (Docket No. 01-1570, issued January 23, 2002).

¹⁰ It was unnecessary for the Office medical adviser to calculate a binaural loss using the standardized formula since he had determined appellant did not have a hearing loss in his left ear; *see James A. England*, 47 ECAB 115, 118 (1995).

The January 7, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.¹¹

Dated, Washington, DC
September 13, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

¹¹ Appellant suggests that the schedule award is incorrect because it does not consider all of his prior employment. It is noted that the schedule award determination, once accepted as related to federal employment, does not differentiate between employees. It is based solely on the current hearing tests.