

**United States Department of Labor
Employees' Compensation Appeals Board**

ROLAND C. KOSTALEK, Appellant)	
)	
and)	Docket No. 05-557
)	Issued: June 6, 2005
DEPARTMENT OF THE ARMY, Fort Campbell, KY, Employer)	
)	
)	

Appearances:
Roland C. Kostalek, *pro se*
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On January 5, 2005 appellant filed a timely appeal of a December 14, 2004 merit decision of the Office of Workers' Compensation Programs that found he had a 10 percent binaural loss of hearing. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant has greater than a 10 percent binaural loss of hearing.

FACTUAL HISTORY

On June 4, 2004 appellant, then a 63-year-old construction representative, filed a claim for compensation for an occupational hearing loss, which he attributed to his exposure to loud noise in his employment. He listed the sources of noise as power tools, construction equipment, gun fire, and aircraft, and indicated that he was exposed to noise an average of six to seven hours per day. The employing establishment stated that appellant was exposed to such noise for approximately four hours per day. It submitted results of audiograms done on March 10, 1983,

April 20, 1989, April 19, 1990, April 23, 1991, April 21, 1994, May 4, 1995, May 2, 1996, April 26, May 25 and June 13, 2001, April 8, 2003, and April 14, 26 and June 17, 2004.

On July 19, 2004 the Office referred appellant and a statement of accepted facts to Dr. Phillip Klapper, a Board-certified otolaryngologist, for an evaluation of his hearing loss and its relationship to his employment. In an August 3, 2004 report, accompanied by an audiogram and speech audiometry results of the same date, Dr. Klapper concluded that appellant had a bilateral high frequency noise-induced hearing loss due to his exposure to noise. Dr. Klapper's audiogram showed, for the right ear, at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps), decibel losses of 30, 30, 30 and 35 respectively, and for the left ear, at the frequency levels of 500, 1,000, 2,000 and 3,000 cps decibel losses of 30, 30, 30 and 50 respectively.

An Office medical adviser applied the Office's standards to the hearing losses reported by Dr. Klapper and concluded that he had a 10 percent binaural loss of hearing. On December 14, 2004 the Office issued a schedule award for a 10 percent binaural loss of hearing.

LEGAL PRECEDENT

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.¹ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.² 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.³ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁴ 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.⁵ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁶

ANALYSIS

After the Office ascertained that appellant was exposed to noise in his employment, it referred him to Dr. Klapper, a Board-certified otolaryngologist, for an evaluation of his hearing loss and its relationship to his employment. Dr. Klapper's August 3, 2004 report concluded that appellant had a bilateral high frequency noise-induced hearing loss due to his exposure to noise.

¹ A.M.A., *Guides* at 250 (5th ed. 2001).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Donald E. Stockstad*, 53 ECAB 301 (2002).

An Office medical adviser applied the Office's standardized procedures to the August 3, 2004 audiogram from Dr. Klapper. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 30, 30, 30 and 35 respectively. The Office medical adviser totaled these losses at 125 decibels and divided by 4 to obtain the average hearing loss at those cycles of 31.25 decibels. The average of 31.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 6.25 which was multiplied by the established factor of 1.5 to compute a 9.38 percent loss of hearing for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 30, 30, 30 and 50 respectively. These decibels were totaled at 140 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 35 decibels. The average of 35 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 10 percent which was multiplied by the established factor of 1.5 to compute a 15 percent loss of hearing for the left ear.

The Office medical adviser then computed the binaural hearing loss by multiplying the lesser loss, 9.38 by 5 to equal 46.9 which was added to the greater loss, 15, to equal 61.9. The Office medical adviser then divided this figure by 6 to arrive at a 10.31 percent binaural hearing loss, which was rounded to 10 percent.

The Board finds that the Office medical adviser correctly applied the Office's standards to Dr. Klapper's audiogram in determining that appellant had a 10 percent binaural loss of hearing. There is no medical evidence that appellant has a greater loss.

CONCLUSION

The Board finds that appellant has no greater than a 10 percent permanent binaural loss of hearing.

ORDER

IT IS HEREBY ORDERED THAT the December 14, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 6, 2005
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member