

On November 3, 2003 appellant, then a 54-year-old ordinance equipment mechanic, filed an occupational disease claim alleging that he sustained bilateral hearing loss and tinnitus of the left ear due to factors of his federal employment. He did not stop work.

Appellant submitted a history of his noise exposure and audiograms from the employing establishment dated 1976 to 2003. He further submitted a June 17, 2003 audiogram and an accompanying report from an audiologist finding a bilateral sensorineural hearing loss worse on the left side. In an unsigned medical report dated June 19, 2003, Dr. Robert E. Brammer, a Board-certified otolaryngologist, recommended a magnetic resonance imaging (MRI) scan to rule out a left ear acoustic problem.

By letter dated January 21, 2004, the Office referred appellant, together with a statement of accepted facts to Dr. Leonard Dias, a Board-certified otolaryngologist, for an evaluation to determine whether he had an employment-related hearing loss. He evaluated appellant on February 13, 2004 and obtained an audiogram. The audiogram reflected testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) and revealed decibel losses on the left of 10, 10, 30 and 45, respectively and on the right of 10, 10, 10 and 25, respectively. Dr. Dias discussed appellant's complaints of tinnitus especially in the left ear. He diagnosed a "noise[-]induced sensory neural hearing loss, which is worse on the left side." Dr. Dias stated, "Because of the asymmetry of the hearing loss, a retrocochlear work-up is recommended to rule out a possible acoustic neuroma." He indicated on an accompanying form report that appellant required additional testing before addressing the cause of his hearing loss.

The record contains the results of audiograms from the employing establishment obtained in February 2004.

An MRI scan of the brain, obtained on April 6, 2004 revealed normal findings on examination. In a supplemental report, Dr. Dias noted that the MRI scan showed no abnormalities of the auditory canals and that testing demonstrated no retrocochlear lesion. He opined that appellant's "current symptoms are related to the work environment."

On May 22, 2004 an Office audiologist reviewed Dr. Dias' report and audiometric tests results and concluded that appellant did not have a ratable impairment of either ear. She found that the "[r]eferral report of February 13, 2004 is complete and reliable and results reveal a nonratable high frequency sensorineural hearing impairment bilaterally." The Office audiologist noted that Dr. Brammer's June 17, 2003 audiogram was not complete as testing was not performed for 3,000 cps. She authorized hearing aids.

By letter dated May 24, 2004, the Office informed appellant that it had accepted his claim for binaural hearing loss.

In a decision dated May 17, 2005, the Office denied appellant's claim for a schedule award on the grounds that his hearing loss was not ratable, but authorized hearing aids.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ provides for compensation to employees sustaining permanent loss or loss of use, of specified members of the body. The Act, however, does not specify the manner in which the percentage loss of a

¹ 5 U.S.C. §§ 8101-8193.

member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office. For consistent results and to insure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5th ed. 2001) has been adopted by the Office for evaluating schedule losses and the Board has concurred in such adoption.²

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.³ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁴ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁵ 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 Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁷

Regarding tinnitus, the A.M.A., *Guides* states:

“Tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, add up to 5 percent for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform the activities of daily living.”⁸

² See 20 C.F.R. § 10.404; *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

³ A.M.A., *Guides* 250.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Donald E. Stockstad*, 53 ECAB 301 (2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

⁸ A.M.A., *Guides*, at 246.

ANALYSIS

The Office audiologist properly applied the Office's standardized procedures to the February 13, 2004 audiogram performed for Dr. Dias.⁹ Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 10, 10, 10 and 25 respectively. These decibel losses were totaled at 55 and divided by 4 to obtain the average hearing loss per cycle of 13.75. The average of 13.75 was then reduced by the 25 decibel fence (the first 25 decibels are discounted as discussed above) to equal 0 decibels for the right ear. The 0 was multiplied by 1.5 resulting in a 0 percent loss for the right ear. Testing for the left ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 10, 10, 30 and 45 respectively. These decibel losses were totaled at 95 and divided by 4 to obtain the average hearing loss per cycle of 23.75. The average of 23.75 was then reduced by the 25 decibel fence to equal 0 decibels for the left ear. The 0 was multiplied by 1.5 resulting in a 0 percent loss for the left ear. The Office audiologist thus properly found that appellant did not have a ratable hearing loss in either ear under the A.M.A., *Guides*.

The Board finds that the Office audiologist applied the proper standards to the February 13, 2004 audiogram. The result is a nonratable hearing loss bilaterally. The Board further finds that the Office audiologist properly relied upon the February 13, 2004 audiogram as it was part of Dr. Dias' evaluation and met all the Office's standards.¹⁰

Appellant contends on appeal that the Office's decision is contradictory because it authorized hearing aids but found his hearing loss was not ratable. As discussed above, however, a claimant is only entitled to a schedule award if his or her hearing loss is severe enough to be ratable according to the provisions of the A.M.A., *Guides*. Thus, as in this case, a claimant may have a loss of hearing and still not be entitled to a schedule award.

On appeal, appellant also notes that he did not receive an award for tinnitus. The A.M.A., *Guides*, however, only allow an impairment rating for tinnitus, up to five percent, when there is a measurable hearing loss and the tinnitus impacts the ability to perform the activities of daily living.¹¹ As noted above, appellant's hearing loss is not ratable. Accordingly, the Board finds that he is not entitled to a schedule award for tinnitus.

⁹ While the record contains prior audiograms taken by the employing establishment, there is insufficient information accompanying the audiograms to demonstrate that they meet the Office's standards for audiograms used in the evaluation of permanent hearing impairment. See *Yolanda Librera (Michael Librera)*, 37 ECAB 388 (1986); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirement for Medical Reports*, Chapter 3.600.8(a)(2) (September 1994). Additionally, the February 2004 audiograms from the employing establishment were not certified by a physician as accurate and thus did not meet the Office's requirements for an audiogram. The Office does not have to review every uncertified audiogram which has not been prepared in connection with an examination by a medical specialist. *Joshua A. Holmes*, 42 ECAB 213, 236 (1990).

¹⁰ See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirement for Medical Reports*, Chapter 3.600.8(a)(2) (September 1994).

¹¹ A.M.A., *Guides* 246; *Juan A. Trevino*, 54 ECAB ____ (Docket No. 02-1602, issued January 17, 2003).

CONCLUSION

The Board finds that as appellant has not established a ratable loss of hearing he is not entitled to a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 17, 2005 is affirmed.

Issued: October 24, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board