United States Department of Labor
Employees' Compensation Appeals Board

R.B., Appellant	)	
and	)	**Docket No. 06-2042**
	)	**Issued: January 9, 2007**
TENNESSEE VALLEY AUTHORITY, WIDOWS CREEK FOSSIL PLANT, Chattanooga, TN, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 5, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated August 8, 2006 which denied his claim for a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the schedule award in this case

ISSUE

The issue is whether the Office properly denied appellant's claim for a schedule award for hearing loss.

FACTUAL HISTORY

On March 13, 2006 appellant, then a 61-year-old fossil mechanic technician, filed a claim alleging that he sustained permanent hearing loss while in the performance of duty. He became aware of his hearing loss on the January 1, 2002.

By letter dated March 27, 2006, the Office requested additional evidence from appellant and the employing establishment.

Appellant and the employing establishment submitted evidence indicating that he was exposed to noise at work. The employing establishment submitted copies of audiograms obtained from July 31, 1969 to May 12, 2005 which revealed some mild bilateral hearing loss.

By letter dated June 14, 2006, the Office referred appellant to Dr. Joseph Motto, a Board-certified otolaryngologist, for otologic examination and audiological evaluation. It provided Dr. Motto with a statement of accepted facts, available noise exposure information and copies of medical reports and audiograms.

Dr. Motto performed an otologic evaluation of appellant on July 18, 2006 and audiometric testing was conducted on the doctor's behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 10, 20, 30 and 40 decibels; left ear 5, 20, 20 and 30 decibels. Dr. Motto determined that appellant sustained mild sensorineural hearing loss beginning at 3,000 hertz and at 2,000 hertz. He indicated that the sensorineural hearing loss was due to noise exposure present in appellant's employment. Dr. Motto noted that the audiogram revealed a typical drop of 4,000 hertz consistent with noise exposure and advised that the actual hearing loss exceeded age expected loss at the frequency level.

On August 1, 2006 an Office medical adviser reviewed Dr. Motto's report and the audiometric test of July 18, 2006. He concluded that, in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001) (A.M.A., *Guides*), appellant had zero percent bilateral sensorineural hearing loss and no impairment for purposes of a schedule award. The medical adviser determined that appellant's hearing loss was not severe enough to be ratable for a schedule award after applying the Office's current standards for evaluating hearing loss to the results of the July 18, 2006 audiology test. He determined that appellant had a zero percent binaural sensorineural hearing loss.

By decision dated August 8, 2006, the Office determined that the hearing loss was employment related but not severe enough to be considered ratable for purposes of a schedule award.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act[1] and its implementing regulation[2] set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. 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

5 U.S.C. § 8107.

20 C.F.R. § 10.404 (1999).

uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.[3]

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.[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 a factor of 1.5 to arrive at the percentage of monaural hearing 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 hearing loss.[8] The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.[9]

ANALYSIS

An Office medical adviser applied the Office's standardized procedures to the July 18, 2006 audiogram performed for Dr. Motto. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibels losses of 10, 20, 30 and 40 respectively. These decibels were totaled at 100 and were divided by 4 to obtain an average hearing loss at those cycles of 25 decibels. The average of 25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0, which was multiplied by the established factor of 1.5 to compute a 0 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 hertz revealed decibels losses of 5, 20, 20 and 30 respectively. These decibels were totaled at 75 and were divided by four to obtain the average hearing loss at those cycles of 18.75 decibels. The average of 18.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss for the left ear.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Motto's report and the July 18, 2006 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth above. While

[3] *Id.*

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

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

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

appellant has an employment-related hearing loss, it is not ratable for schedule award purposes under the standards that the Office applies to all schedule award claims for hearing loss.

CONCLUSION

The Board finds the Office properly denied appellant's claim for a schedule award for hearing loss.

ORDER

IT IS HEREBY ORDERED THAT the August 8, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 9, 2007
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board