

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENNIS W. BOLELLI and DEPARTMENT OF THE NAVY,
MARE ISLAND NAVAL SHIPYARD, Vallejo, Calif.

*Docket No. 96-2427; Submitted on the Record;
Issued August 21, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained a ratable hearing loss that would entitled him to a schedule award.

On November 3, 1995 appellant filed a claim for hearing loss due to factors of his federal employment. By decision dated March 18, 1996, the Office of Workers' Compensation Programs accepted that appellant sustained high frequency hearing loss in his left ear. By decision dated June 5, 1996, the Office determined that appellant sustained a bilateral employment-related loss of hearing but found that his hearing loss was not sufficiently severe to be ratable for purposes of a schedule award.

The Board has duly reviewed the record in this case and finds that appellant does not have a ratable hearing loss for schedule award purposes.

The compensation schedule of the Federal Employees' Compensation Act¹ specifies the number of weeks of compensation to be paid for permanent loss of use of various members of the body. The Act does not, however, specify the manner in which the percentage loss of a member is to 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

The Office evaluates hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, using

¹ 5 U.S.C. § 8107.

² *Danniel C. Goings*, 37 ECAB 781 (1986).

³ *Henry L. King*, 25 ECAB 39 (1973).

hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second (cps). The losses at each frequency are added together and averaged, and a “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 sounds under everyday conditions.⁴ The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. The binaural hearing loss is determined by first 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 binaural hearing loss.⁵ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss for schedule compensation purposes.⁶

Dr. Robert D. Urrea, an Office referral physician and Board-certified otolaryngologist, submitted a medical report and a February 14, 1996 audiogram, performed on his behalf, which conforms to the A.M.A., *Guides*. The Office medical adviser applied the Office’s standardized procedures to Dr. Urrea’s audiogram. Testing for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cps revealed losses of 10, 5, 10 and 20 decibels, respectively. These losses were totaled at 45 decibels and divided by 4 to arrive at an average hearing loss of 11.25 decibels. The average loss was reduced by 25 decibels (the first 25 decibels are discounted, as discussed above) to equal 0 decibels, which was multiplied by 1.5 to arrive at a 0 percent hearing loss for the right ear.

Testing for the left ear at frequencies of 500, 1,000, 2,000 and 3,000 cps revealed losses of 10, 10, 25 and 40 decibels, respectively. These losses were totaled at 85 decibels and divided by 4 to arrive at an average hearing loss of 21.25 decibels. The average loss was reduced by 25 decibels (the first 25 decibels are discounted, as discussed above) to equal 0 decibels, which was multiplied by 1.5 to arrive at a 0 percent hearing loss for the left ear. Thus, the Office properly concluded that appellant had not sustained a compensable loss of hearing. The Board finds that the medical evidence, as represented by Dr. Urrea, reveals that, although appellant has sustained an employment-related loss of hearing, it is not sufficiently great to be ratable for purposes of entitlement to a schedule award under the Act.⁷

The decision of the Office of Workers’ Compensation Programs dated June 5, 1996 is hereby affirmed.

Dated, Washington, D.C.

⁴ American Medical Association, *Guides to the Evaluation of Permanent Impairment*, page 224 (4th ed. 1993).

⁵ *Id.*

⁶ See *Danniel C. Goings*, *supra* note 2.

⁷ *Royce L. Chute*, 36 ECAB 202 (1984).

August 21, 1998

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member