U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HERMAN E. ORTEGA and DEPARTMENT OF DEFENSE, DEFENSE DISTRIBUTION REGION WEST, Stockton, Calif.

Docket No. 96-1015; Submitted on the Record;
Issued February 3, 1998

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON, BRADLEY T. KNOTT

The issue is whether appellant has established that he has a ratable hearing loss causally related to noise exposure in his federal employment.

On February 13, 1995 appellant, a 53-year-old material handler, filed a claim alleging that he sustained a hearing loss as a result of noise exposure in his federal employment. By decision dated November 1, 1995, the Office of Workers' Compensation Programs accepted that appellant's hearing loss to his left ear was causally related to his federal employment, but found that the hearing loss was not considered ratable under the appropriate standards. The Office further found that appellant had a hearing loss in his right ear which was not caused by exposure to hazardous noise and was therefore not related to his federal employment.

The Board has duly reviewed the record and finds that appellant has not established a ratable hearing loss in his left ear or that he sustained a hearing loss in his right ear causally related to his federal employment.

Under section 8107 of the Federal Employees' Compensation Act and section 10.304 of the implementing federal regulations, schedule awards are payable for permanent impairment of specified bodily members, functions or organs.[1] Neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined.

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., Guides) using the frequencies of 500, 1,000, 2,000 and 3,000 hertz (Hz). The threshold levels at each frequency are added up and averaged to determine the estimated hearing level for speech. A "fence" of 25 decibels (dBs) is deducted since, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech in everyday conditions.

[1] 5 U.S.C. § 8107; 20 C.F.R. § 10.304.

The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. The Board has concurred in the Office's use of this standard for evaluating hearing losses for schedule award purposes.[2]

In the present case, the Office referred appellant for evaluation by Dr. Stephen L. Larmore, a Board-certified otolaryngologist. In a report dated September 20, 1995, Dr. Larmore indicated that appellant's right ear hearing loss was secondary to cochlear and stapedial otoscelrosis, previous viral inner ear infection, or other conditions affecting the cochlea of the right ear. The Office medical adviser reviewed Dr. Larmore's opinion and also opined that appellant did not have a hearing loss in his right hear related to his federal employment. The Office, therefore, properly found that appellant failed to establish a hearing loss in his right ear causally related to his federal employment inasmuch as the record is devoid of any medical evidence establishing such an injury.

Dr. Larmore, however, did indicate that appellant suffered a left-sided high frequency neurosensory loss, consistent in part with acoustic trauma of noise exposure. The accompanying audiogram reported that for the left ear, the decibel levels were 5, 20, 15 and 35 at the frequencies of 500, 1,000, 2,000 and 3,000 Hz. The average decibel level for the left ear is, therefore, 18.75 (75 divided by 4).

As noted by an Office medical adviser, in a memorandum dated October 21, 1995, after the fence of 25 is deducted, no ratable loss results in the left ear. The record, therefore, indicates that although appellant has an employment-related hearing loss in his left ear, it is not considered ratable under the appropriate standards used to determine impairment under the Act. Consequently, the Office also properly determined that appellant was not entitled to a schedule award in this case.

The decision of the Office of Workers' Compensation Programs dated November 1, 1995 is affirmed.

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

Dated, Washington, D.C.
February 3, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member