

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JERRY L. HAWKINS and DEPARTMENT OF THE ARMY,  
U.S. ARMY TRAINING & DOCTRINE COMMAND,  
Fort Huachuca, Ariz.

*Docket No. 96-1530; Submitted on the Record;  
Issued March 9, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
A. PETER KANJORSKI

The issue is whether appellant has a ratable hearing loss causally related to factors of his federal employment.

In a letter decision dated March 4, 1996, the Office of Workers' Compensation Programs rejected appellant's claim for a schedule award for bilateral hearing loss causally related to his exposure to hazardous noises in the performance of his federal employment. The Office found that, while appellant had sustained a permanent partial hearing loss as a result of this exposure, the extent of the hearing loss established was determined to be not ratable or compensable.

The schedule award provisions of the Federal Employees' Compensation Act<sup>1</sup> sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. The method of determining this percentage rests in the sound discretion of the Office.<sup>2</sup> To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.<sup>3</sup>

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993), using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added up and averaged. Then a "fence" of 25

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

<sup>3</sup> *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

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.<sup>4</sup> The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural loss. 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.<sup>5</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>6</sup>

The district medical adviser correctly applied the Office's standard procedures to the December 27, 1995 audiogram obtained by Dr. Walter J. Jasin, Jr., a Board-certified otolaryngologist to whom the Office referred appellant. The district medical adviser also agreed with Dr. Jasin's medical diagnosis which revealed that appellant had a bilateral high frequency neurosensory hearing loss, consistent in part with hearing loss of noise exposure on the job.<sup>7</sup>

Testing for the right ear at the relevant frequencies revealed decibel losses of 10, 10, 25 and 35 for a total of 80, which was divided by 4 for an average hearing loss of 20 decibels; the average was reduced by the fence of 25 (the first 25 decibels were discounted as discussed above) to arrive at 0 or no ratable loss of hearing in the right ear.<sup>8</sup> The hearing loss in the right ear was not ratable under these standards and, therefore, not compensable.

Testing for the left ear at the same frequencies revealed decibel losses of 15, 10, 30 and 40 decibels respectively for a total of 90. This figure was divided by 4, for an average hearing loss of 23.75 decibels; the average was reduced by the fence of 25 (the first 25 decibels were discounted) to arrive at 0 or no ratable loss of hearing in the left ear.<sup>9</sup> The hearing loss in the left ear was not ratable under these standards and, therefore, not compensable.

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<sup>4</sup> The A.M.A., *Guides* points out that the losses below an average of 25 decibels is deducted as it does not result in impairment in the ability to hear everyday sounds under everyday listening conditions; see A.M.A., *Guides* 224 (4th ed. 1993); see also *Kenneth T. Esther*, 25 ECAB 335; *Terry A. Wethington*, 25 ECAB 247.

<sup>5</sup> FECA Program Memorandum No. 272 (issued February 24, 1986).

<sup>6</sup> *Danniel C. Goings*, *supra* note 2.

<sup>7</sup> The Office had accepted that appellant sustained an employment-related hearing loss in both ears due to noise exposure.

<sup>8</sup> See A.M.A., *Guides* 224 (4th ed. 1993).

<sup>9</sup> *Id.*

The decision of the Office of Workers' Compensation Programs dated March 4, 1996 is affirmed.

Dated, Washington, D.C.  
March 9, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

A. Peter Kanjorski  
Alternate Member