

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD L. ROBINSON and DEPARTMENT OF THE ARMY,
ANNISTON ARMY DEPOT, Anniston, Ala.

*Docket No. 97-140; Submitted on the Record;
Issued January 13, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

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

On October 23, 1995 appellant, then a 47-year-old heavy mobile equipment leaderman, filed a notice of occupational disease claim for compensation (Form CA-2) alleging that he sustained a hearing loss causally related to factors of his federal employment. Appellant stated that he first learned of his condition and attributed it to his employment in 1990. He retired November 2, 1995.

Accompanying the claim was evidence indicating that appellant had loud noise exposure at work. Also submitted were results of audiometric testing taken between 1978 and 1995.

In a letter dated December 18, 1995, the Office of Workers' Compensation Programs referred appellant and a statement of accepted facts to Dr. Arthur Toole, a Board-certified otolaryngologist, for an audiologic and otologic evaluation of appellant. The audiologist performing the February 8, 1996 audiogram for Dr. Toole noted findings on audiological evaluation. At the frequencies of 500, 1,000, 2,000 and 3,000 hertz, the following thresholds were reported: right ear 10, 10, 10 and 40 decibels: left ear 10, 5, 15 and 35 decibels.

In a report dated February 8, 1996, Dr. Toole reviewed the audiogram taken on his behalf, noted the findings on examination and diagnosed a bilateral high frequency sensorineural hearing loss, slightly greater than that anticipated from presbycusis tables in certain frequencies and attributed the hearing loss to noise exposure while employed at the employing establishment, especially if appellant's best audiogram was used as the baseline. The physician recommended amplification and annual audiograms.

In a July 25, 1996 report, an Office medical adviser reviewed Dr. Toole's report and the audiogram taken for him and opined appellant's hearing loss was nonratable for schedule award

purposes under the Office standards for evaluating hearing loss. He further opined that a hearing aid was authorized.

In a decision dated August 14, 1996, the Office accepted that appellant had an employment-related hearing loss but determined that appellant's hearing loss was not sufficient to warrant a schedule award. The Office further indicated that hearing aids were authorized.

The Board finds that appellant does not have a ratable hearing loss causally related to his federal employment.

The schedule award provisions of the Federal Employees' Compensation Act provide for compensation to employees sustaining impairment from loss, or loss of use of specified members of the body.¹ The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.² For consistent results and to ensure 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* (4th ed. 1993) has been adopted by the Office as a standard for evaluation of scheduled losses and the Board has concurred in such adoption.³

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz (Hz). The losses at each frequency are added up and averaged and a "fence" of 25 decibels is deduced since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions.⁴ Then the remaining amount is multiplied by 1.5 to arrive at the percentage loss 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 binaural hearing loss.⁵

The Office medical adviser applied the Office's standardized procedures to the February 8, 1996 audiogram performed for Dr. Toole. Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed hearing losses of 10, 10, 10 and 40 decibels respectively. These decibels were totaled to 70 and were divided by 4 to obtain the average hearing loss at those cycles of 17.50 decibels. The average of 17.50 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 in the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed decibel losses of 10, 5, 15 and 35 respectively. These decibels were totaled at 65 and were divided by 4 to obtain the

¹ 5 U.S.C. § 8107.

² *Daniel C. Goings*, 37 ECAB 781, 783 (1986); *Richard Beggs*, 28 ECAB 387, 390-91 (1977).

³ *See Luis Chapa, Jr.*, 41 ECAB 159, 167 (1989).

⁴ A.M.A., *Guides*, 166 (3d ed. 1988).

⁵ *Id.*; *see also Daniel C. Goings*, *supra* note 2.

average hearing loss at those cycles of 16.25 decibels. The average of 16.25 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 in the left ear.

Accordingly, pursuant to the Office's standardized procedures, the Office's medical adviser determined that appellant had a nonratable hearing loss in both ears.

The Board finds that the Office medical adviser applied the proper standards to the findings as stated in Dr. Toole's February 8, 1996 report and the accompanying February 8, 1996 audiogram performed on his behalf. This resulted in a calculation of a nonratable hearing loss as set forth above.

The August 14, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
January 13, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member