

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GARY KELLER and DEPARTMENT OF THE NAVY
FORT LEAVENWORTH, Leavenworth, KS

*Docket No. 98-738; Submitted on the Record;
Issued November 9, 1999*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained more than a two percent monaural hearing loss for which he received a schedule award.

On June 2, 1997 appellant, then a 51-year-old pipefitter, filed a notice of occupational disease, Form CA-2, alleging that he sustained bilateral hearing loss in the course of his federal employment. Appellant stated that he first became aware of his hearing loss and realized that it was caused or aggravated by his employment in June of 1992.

Accompanying the claim, the employing establishment submitted various documents, including copies of audiograms taken during appellant's employment and an occupational noise exposure survey documenting that appellant was exposed to loud noise at work.

The Office of Workers' Compensation Programs referred appellant, a statement of accepted facts and copies of the audiograms to Dr. Robert Dinsdale, a Board-certified otolaryngologist. Audiological testing performed on August 8, 1997 for Dr. Dinsdale revealed decibel losses of 5, 10, 15, 45 decibels at 500, 1,000, 2,000 and 3,000 hertz in the right ear and decibel losses of 5, 10, 45 and 45 decibels in the left ear. Dr. Dinsdale diagnosed a noise induced hearing loss, bilateral due to noise exposure and consequently recommended binaural amplification.

In a September 24, 1997 report, an Office medical adviser opined, after reviewing a statement of accepted facts and Dr. Dinsdale's August 8, 1997 report and accompanying audiogram, that appellant has a zero percent monaural hearing loss in the right ear and a two percent monaural hearing loss in the left ear. The medical adviser stated that the date of maximum medical improvement was August 8, 1997 and authorized hearing aids.

In a December 5, 1997 award of compensation, the Office granted appellant a two percent left hearing loss. The award ran from August 8 until August 15, 1997 for a total of 1.04 weeks.

The Board finds that appellant has no more than a two percent left hearing loss for which he received a schedule award.

The schedule award provision of the Federal Employees' Compensation Act provides 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 determination is a matter which 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 a uniform standard applicable to all claimants.³ The American Medical Association, *Guides to the Evaluation of Permanent Impairment*⁴ has been adopted by the Office and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁵

In addition to the standard by which it computes the percentage of hearing loss, the Office has delineated requirements for the type of medical evidence used in evaluating hearing loss. The requirements, as set forth in the Office's procedure manual are, *inter alia*, that the employee undergo both audiometric and otologic examination; that the audiometric testing precede the otologic examination; that the audiometric testing be performed by an appropriately certified audiologist; that the otologic examination be performed by an otolaryngologist certified or eligible for certification by the American Academy of Otolaryngology; that the audiometric and otologic examination be performed by different individuals as a method of evaluating the reliability of the findings; that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association, that the audiometric test results include both bone conduction and pure tone air conduction thresholds, speech reception thresholds and monaural discrimination scores; and that the otolaryngologist's report must include: date and hour of examination, date and hour of employee's last exposure to loud noise, a rationalized medical opinion regarding the relationship of the hearing loss to the employment-related noise exposure and a statement of the reliability of the tests.⁶

¹ 5 U.S.C. § 8107.

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

³ *Id.*

⁴ A.M.A., *Guides* (fourth edition 1993).

⁵ *Danniel C. Goings*, *supra* note 2.

⁶ *Raymond H. VanNett*, 44 ECAB 480, 483 (1993); Federal (FECA) Procedure Manual, Part 4 -- Medical Management, Hearing Loss Chapter 4.300 (May 1991).

Under the A.M.A., *Guides*,⁷ hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz. The losses at each frequency are added up and averaged and a “fence” of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday sounds in everyday listening conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing 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.⁸

The Office medical adviser applied the Office’s standardized procedure to the August 8, 1997 audiogram performed for Dr. Dinsdale. Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibel loss of 5, 10, 15, 45, respectively. These decibels were totaled at 75 and were divided by 4 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 -- 6.25 which was multiplied by 1.5 to compute a zero 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 revealed decibel losses of 5, 10, 45, 45, respectively. These decibels were totaled at 105 and were divided by 4 to obtain the average hearing loss at those cycles of 26.25 decibels. The average of 26.25 decibels was then reduced by 25 decibels (as explained) to equal 1.25 which was multiplied by the established factor of 1.5 to compute a two percent loss of hearing to the left ear.⁹ The Office determined that there was no ratable binaural hearing loss.

The Board finds that the Office medical adviser properly applied the appropriate standards to the findings provided by Dr. Dinsdale’s report dated August 8, 1997 and the accompanying audiogram. This resulted in a calculation of a two percent monaural hearing loss as set forth above. Therefore, the Office established that appellant has no more than a two percent monaural hearing loss for which he received a schedule award.¹⁰

Appellant objects to the award of 1.04 weeks compensation for the hearing loss in the left ear. The Act provides that, for a total or 100 percent loss of hearing in one ear, an employee shall receive 52 weeks’ compensation.¹¹ Accordingly, the amount payable for a two percent monaural hearing loss would be two percent of 52 weeks or 1.04 weeks of compensation, which

⁷ A.M.A., *Guides* (fourth edition 1993).

⁸ *Daniel C. Goings, supra* note 2.

⁹ The Office found a 1.875 percent hearing loss and rounded it up to two percent.

¹⁰ On appeal, appellant contends that the amount of money he has received from his schedule award is insufficient to cover the cost of a hearing aid. It is noted that the Office medical adviser authorized hearing aids. As the record does not establish that the Office has denied appellant’s claim for a hearing aid it is not an issue in the present appeal; *see* 20 C.F.R. § 501.2(c).

¹¹ 5 U.S.C. § 8107(c)(13)(a).

is what appellant was awarded. Under the schedule award provisions, appellant is entitled to no more.

The December 5, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
November 9, 1999

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member