

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LONNIE J. PYLES and DEPARTMENT OF THE ARMY,
ARMY CORPS OF ENGINEERS, Huntington, WV

*Docket No. 98-486; Submitted on the Record;
Issued September 16, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant did not have a ratable hearing loss.

On December 16, 1996 appellant, then a 50-year-old physical science technician, filed a claim for a mild sensorineural hearing loss which he related to noise exposure at work. He indicated that he had worked as a drill helper and a drill operator from 1966 to 1987. Appellant related that since 1987 he had worked at inspection work around drilling machines. In a July 17, 1997 decision, the Office found that appellant's hearing loss was causally related to his exposure to noise at work. The Office, however, further found that appellant was not sufficiently severe to be ratable and therefore entitled appellant to a schedule award.

The Board finds that appellant does not have a ratable hearing loss that would entitle him to a schedule award.

Section 8107 of the Federal Employees' Compensation Act¹ specifies 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 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

¹ 5 U.S.C. § 8107(c).

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

³ *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,⁴ 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 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. Each amount is then multiplied by 1.5. The amount of the better ear is multiplied by 5 and added to the amount from the worse ear. The entire amount is then divided by 6 to arrive at the percentage of binaural hearing loss. Alternatively, the hearings levels at 500, 1,000, 2000 and 3,000 cycles per second are added up and the sum is compared to tables contained in the A.M.A., *Guides*.⁵ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss for schedule award purposes.⁶

The Office medical adviser correctly applied the Office’s standard procedures to the audiogram obtained by Dr. Charles Abraham, a Board-certified otolaryngologist. Testing for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 10, 10, 15 and 45 respectively for a total of 80 decibels. These losses were divided by 4 for an average hearing loss of 20 decibels. The average was reduced by 25 decibels (the first 25 decibels are deducted, as explained above) to equal 0 decibels which was multiplied by 1.5 to arrive at a 0 percent loss for the right ear. Testing for the left ear at the same frequencies revealed decibel losses of 25, 15, 20 and 35 decibels respectively for a total of 90 decibels. These losses were divided by 4 for an average hearing loss of 22.5 decibels. The average was reduced by 25 decibels (as explained above) to equal 0 decibels which was multiplied by 1.5 to arrive at a 0 percent loss for the left ear. Alternatively, using the tables of the A.M.A., *Guides*, as the sum of the hearing loss at the 4 levels measured was less than 100 decibels, appellant did not have a hearing loss as determined by the A.M.A., *Guides*. Appellant, therefore, is not entitled to a schedule award for his hearing loss.

⁴ A.M.A., *Guides* (4th ed. 1993).

⁵ A.M.A., *Guides*, pp. 225-27, Tables 1 to 2.

⁶ Daniel C. Goings, *supra* note 2.

The decision of the Office of Workers' Compensation Programs, dated July 17, 1997, is hereby affirmed.

Dated, Washington, D.C.
September 16, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member