U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARTIN R. WALLETTE and DEPARTMENT OF ENERGY, WESTERN AREA POWER ADMINISTRATION, Miles City, MT

Docket No. 00-412; Submitted on the Record;
Issued December 11, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
VALERIE D. EVANS-HARRELL

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

On April 20, 1999 appellant, then a 42-year-old electrician, filed an occupational disease claim for compensation benefits alleging that he sustained a hearing loss to his left ear, which he attributed to noise exposure at work.

By letter dated July 1, 1999, the Office of Workers' Compensation Programs referred appellant, together with a statement of accepted facts, to Dr. Paul J. Byorth, an otolaryngologist, for an audiologic and otologic evaluation and an opinion as to whether appellant sustained any hearing loss causally related to his employment.

In a report dated August 4, 1999, Dr. Byorth provided a history of appellant's condition, findings on examination and opined that appellant had an asymmetric left-sided sensorineural hearing loss most consistent with point acoustic trauma rather than chronic noise-induced hearing loss. He provided the results of audiometric testing which revealed that appellant had decibel losses of 15, 10, 10 and 45 upon testing of the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second, respectively, and decibel losses of 10, 15, 5 and 15 upon testing of the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000[1] cycles per second, respectively.

In a report dated August 30, 1999, the Office medical adviser applied the Office's standardized procedures to the results of Dr. Byorth's evaluation and determined that appellant had a nonratable hearing loss in either ear.

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[1] Although the audiologist reported the decibel loss for the right ear to be 5 decibels at 3,000 cycles per second, the audiogram indicates that the decibel loss at that frequency is 15 decibels.

By decision dated August 31, 1999, the Office accepted that appellant had a hearing loss causally related to his employment but the hearing loss was not severe enough to be considered compensable.

The Board finds that appellant did not sustain a ratable hearing loss causally related to factors of his employment.

The Federal Employees' Compensation Act[2] schedule award provisions set forth the number of weeks of compensation to be paid for permanent loss of use of members of the body that are listed in the schedule.[3] 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.[4] However, as a matter of administrative practice the Board has stated, "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."[5]

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.[6] Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged. Then, the "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 speech under everyday conditions. The remaining amount is multiplied by a factor of 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.[7] The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.[8]

In this case, audiometric testing performed on August 4, 1999 revealed that appellant had decibel losses of 15, 10, 10 and 45 in the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second, respectively. These decibel losses total 80 decibels which, divided by 4, equal an average loss of 20 decibels. This average loss, reduced by 25 decibels (25 decibels being discounted as discussed above), equals 0 which, when multiplied by the established factor of 1.5, equals a 0 percent hearing loss in the left ear. Testing for the right ear revealed decibel

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[2] 5 U.S.C. §§ 8101-8193.

[3] 5 U.S.C. § 8107.

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

[5] *Id*.

[6] *George L. Cooper*, 40 ECAB 296-97 (1988).

[7] A.M.A., *Guides* 224-29 (4th ed. 1993).

[8] *Donald A. Larson*, 41 ECAB 947, 951 (1990).

losses of 10, 15, 5 and 15 at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second, respectively. These decibel losses total 45 decibels and, divided by 4, equal an average hearing loss of 11.25 decibels. This average loss, reduced by 25 decibels, equals 0 which, when multiplied by the established factor of 1.5, equals a 0 percent hearing loss in the right ear. Thus, appellant's hearing loss is not ratable for schedule award purposes.

The August 31, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 11, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Valerie D. Evans-Harrell
Alternate Member