

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KENNETH B. COTTRELL and DEPARTMENT OF THE AIR FORCE,
ROBINS AIR FORCE BASE, Warner Robins, GA

*Docket No. 99-292; Submitted on the Record;
Issued May 2, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

The record forwarded on appeal indicated that in 1992 the Office of Workers' Compensation Programs accepted appellant's claim (A06-0551477) for binaural hearing loss. The Office also found that appellant's hearing loss was nonratable and, therefore, noncompensable.

On April 21, 1997 appellant, then a 57-year-old engine mechanic, filed a notice of occupational disease, Form CA-2, alleging that he sustained additional bilateral hearing loss in the course of his federal employment.¹ On the reverse side of the form the employing establishment stated that appellant was last exposed to the conditions alleged to have caused his illness on February 10, 1997.

Accompanying the claim, the employing establishment submitted various documents including personnel papers, a record of noise exposure in the military and federal civilian service and a statement from an employee of the employing establishment concerning appellant's exposure to noise.

On August 14, 1997 the record was supplemented with additional noise exposure information from the employing establishment.

On September 3, 1997 the Office referred appellant to Dr. Jeff Wallace, a Board-certified otolaryngologist, for an examination and evaluation of medical records. In a report dated

¹ Appellant filed a claim for compensation on account of traumatic injury or occupational disease (Form CA-7) on December 1, 1997.

September 24, 1997, Dr. Wallace reported the findings of his examination on that day and concluded that appellant suffered from a binaural high frequency sensorineural hearing loss.

In a November 18, 1997 report, an Office medical adviser opined, after reviewing Dr. Wallace's report, a statement of accepted facts and the medical record, that there is a four percent binaural sensorineural hearing loss.

In a December 23, 1997 award of compensation, the Office granted appellant a four percent binaural hearing loss. The award ran from September 24 to November 18, 1997 for a total of eight weeks.

The Board finds that appellant failed to meet his burden of proof in establishing that he has more than a four percent binaural hearing loss for which he received a schedule award.

The schedule award provision of the Federal Employees' Compensation Act set forth the numbers of weeks of compensation to be paid for permanent loss of use of the members of the body that are listed in the schedule.² 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.³ 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."⁴

Under the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, hearing loss is evaluated by determining decibel (dBs) 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 dBs is deducted since, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech in everyday conditions.⁵ 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.⁶

The Office medical adviser applied the Office's standardized procedures to the September 24, 1997 audiogram performed for Dr. Wallace. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed dBs losses of 15, 20, 35 and 40 respectively. These dBs were totaled at 110 and were divided by 4 to obtain the average hearing loss at those cycles of 27.50 dBs. The average of 27.50 dBs was then reduced by 25 dBs (the

² 5 U.S.C. § 8107.

³ *Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁴ *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324-25 (1961).

⁵ A.M.A., *Guides* at 224.

⁶ *Id*; see also *Danniel C. Goings*, *supra* note 3 at 784.

first 25 dBs were discounted as discussed above) to equal 2.50 dBs, which was multiplied by the established factor of 1.5 to compute a 3.75 percent loss of hearing for the right ear. Testing for the left ear at the relevant frequencies revealed decibel losses of 10, 15, 40 and 50, respectively. These decibels were totaled at 115 and were divided by 4 to obtain the average hearing loss at those cycles of 28.75 decibels. The average of 28.75 was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 3.75, which was multiplied by the established factor of 1.5 to compute a 5.63 percent loss of hearing for the left ear. The amount of the right ear (the better ear), 3.75 was multiplied by 5 and added to the amount of the left ear, 5.63 which totaled to 24.38. The 24.38 was then divided by 6 to arrive at the percentage of binaural hearing loss. Accordingly, pursuant to the Office's standardized procedures, the Office medical adviser properly determined that appellant sustained a four percent binaural hearing loss.

The Board finds that the Office medical adviser properly applied the appropriate standards to the findings provided by Dr. Wallace's report dated September 24, 1997 and the accompanying audiogram. This resulted in a calculation of a four percent binaural hearing loss.

The December 23, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
May 2, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member