

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD T. LARISH and DEPARTMENT OF THE ARMY,
TOBYHANNA ARMY DEPOT, Tobyhanna, PA

*Docket No. 99-1090; Submitted on the Record;
Issued May 19, 2000*

DECISION and ORDER

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

The issue is whether appellant is entitled to a schedule award for his employment-related hearing loss.

On June 30, 1998 appellant filed a notice of occupational disease alleging that he developed hearing loss due to factors of his federal employment. By decision dated December 11, 1998, the Office of Workers' Compensation Programs accepted that appellant sustained a hearing loss due to occupational noise exposure in his employment, but did not grant appellant a schedule award because his hearing loss was not severe enough to be considered ratable.

Appellant was an equipment cleaner for the employing establishment for 15 years when he filed his CA-2 form for compensation benefits. Appellant alleged that he worked in the sandblast area and paint shop with varying to high levels of noise for approximately 12 years and that he sustained high frequency hearing loss. Appellant alleged that, whenever required, he wore ear protection while at work.

Appellant's employment records establish that annual audiograms had been performed during his term of employment. A November 18, 1991 audiological report indicated that there had been no significant change in appellant's hearing since 1983. A second report dated June 25, 1998 noted his hearing at "borderline normal limits through 3000 Hz-AD sloping to a moderate SNHL above 3000 Hz-AD. Hearing at borderline normal limits through 2000 Hz and a mild to severe SNHL above 2KHz-AS."

Appellant's medical health record indicated that he had participated in nonwork related activities over the years such as using power tools, riding a motorcycle and hunting, in which he seldom wore hearing protection when exposed to loud noise. Appellant's record also noted that he previously worked in the steel industry for 10 years where he had been exposed to noise hazards.

The Office in its investigation considered the medical evidence submitted by appellant and his employing establishment, and referred appellant on August 28, 1998 to Dr. Thomas LeMasters, a Board-certified otolaryngologist, for otologic evaluation and examination. The Office provided Dr. LeMasters' with a statement of accepted facts, available exposure information and copies of relevant medical reports and audiograms. Dr. LeMasters diagnosed appellant on August 28, 1998 with bilateral sensorineural hearing loss due to noise exposure. Dr. LeMasters subsequently made an addendum to his August 28, 1998 report in which he offered his medical opinion that appellant's hearing loss was work related. Upon receipt of Dr. LeMasters' August 28, 1998 report and audiogram performed at his request, on October 30, 1998, the district medical adviser for the Office, applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment*¹ to the August 28, 1998 audiogram.

By decision dated December 11, 1998, the Office denied appellant's claim for a schedule award on the grounds that his hearing loss was not severe enough to be considered ratable. The Office determined, however, that appellant was entitled to medical benefits for the effects of his injury, including hearing aids.

The Board has duly reviewed the case on appeal and finds that appellant is not entitled to a schedule award for his employment-related hearing loss.

The schedule award provisions of the Federal Employees' Compensation Act² set forth the number of weeks of compensation to be paid for permanent loss of use of the members listed in the schedule. 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 determinations is a matter which rests in the sound discretion of the Office. However, as a matter of administrative practice and to ensure consistent results to all claimants, the Office has adopted and the Board has approved of the A.M.A., *Guides* as the uniform standard applicable to all claimants.³

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the following frequency levels: 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 deducted since, as the A.M.A., *Guides* point out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions.⁴ 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.⁵

¹ A.M.A., *Guides* (4th ed. rev., 1993).

² 5 U.S.C. § 8107; *see generally* 5 U.S.C. §§ 8101-8193.

³ *Jimmy B. Newell*, 39 ECAB 181 (1987).

⁴ A.M.A., *Guides* 224.

⁵ *Id*; *see also* *Danniel C. Goings*, 37 ECAB 781, 784 (1986).

The Office medical adviser properly applied the standardized procedures to the August 28, 1998 audiogram. Testing of appellant's left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed decibel losses of 20, 25, 15, and 25 totaling 85 decibels. The total of 85 decibels was then divided by 4 to obtain the average hearing loss at those cycles of 21.25 decibels. The average of 21.25 decibels was then reduced by 25 decibels to equal 0, which was multiplied by the established factor of 1.5, which computed a 0 percent hearing loss for the left ear. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed decibel losses of 15, 20, 25, and 35 totaling 95 decibels. The total of 95 decibels was then divided by 4 to obtain the average hearing loss at those cycles of 23.55 decibels. The average of 23.55 decibels was then reduced by 25 decibels to equal 0, which was multiplied by the established factor of 1.5, which computed a 0 percent hearing loss for the right ear. Accordingly, the Office medical adviser properly found that appellant had nonratable hearing loss in both ears.

The decision of the Office of Workers' Compensation Programs dated December 11, 1998 is hereby affirmed.

Dated, Washington, D.C.
May 19, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member