

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT E. LOVE and DEPARTMENT OF THE ARMY,
DIRECTORATE OF LOGISTICS, Fort Polk, LA

*Docket No. 00-1680; Submitted on the Record;
Issued April 4, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

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

On September 30, 1998 appellant, then a 59-year-old heavy mobile equipment mechanic, filed an occupational disease claim, alleging that he sustained a hearing loss as a result of his federal employment. Appellant submitted his health record with the employing establishment, which included numerous yearly audiograms.

In response to questions propounded by the Office of Workers' Compensation Programs, appellant noted that he was diagnosed with a hearing problem in 1995, and that the only hobby he had where he was exposed to noise was very limited hunting. His supervisor indicated that appellant was exposed to noise from forklifts, petty-bone, running engines, horns, impact wrenches, grinders, power hammers and other equipment 10 hours a day, 4 days a week. He stated that appellant used ear protection at work.

By letter dated November 10, 1998, the Office referred appellant to Dr. Paul Guillory, a Board-certified otolaryngologist, for a hearing loss evaluation. On December 4, 1998 an audiogram conducted for Dr. Guillory showed testing at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed a right ear loss of 5, 5, 5 and 20 decibels respectively, and in the left ear, 5, 5, 5 and 45 decibels respectively. Dr. Guillory concluded that appellant had high frequency sensorineural hearing loss secondary to noise exposure, but rated this impairment as zero percent.

On January 11, 1999 the Office medical adviser evaluated the December 4, 1998 audiogram, applied the American Medical Association, *Guides to the Evaluation of Permanent*

Impairment (4th ed. 1993)¹ to these figures, and determined that appellant had a binaural hearing loss of zero.

Accordingly, in a decision dated January 26, 1999, the Office found that appellant was not entitled to a schedule award of compensation for hearing loss under the Act, as he had no ratable hearing loss.

On January 13, 2000 appellant requested reconsideration. In support thereof, appellant submitted an audiogram dated January 12, 2000 which rated appellant's loss at 500, 1,000, 2,000 and 3,000 hertz in the right ear of 20, 15, 15 and 25 respectively, and in the left ear of 20, 15, 15 and 40 respectively. The Office referred this audiogram to the Office medical adviser for determination of hearing loss under the A.M.A., *Guides*. The Office medical adviser evaluated these new figures and again determined that appellant had a zero percent binaural hearing impairment.

By decision dated March 30, 2000, the Office denied modification of its previous decision, noting the opinion of the district medical adviser that, while appellant had been exposed to potentially hazardous noise at work, the amount of ratable hearing loss was zero percent in each ear.

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

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 member of the body.² The Act, however, does not specify the manner in which the percentage of 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. 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. The A.M.A., *Guides* have been adopted by the Office and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.³

Under the A.M.A., *Guides*, 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.⁴ The remaining amount is multiplied by 1.5 to arrive at a percent of monaural hearing loss. The binaural loss is determined by calculating the loss in each ear

¹ Hereinafter, A.M.A., *Guides*.

² 5 U.S.C. § 8107.

³ *Danniel S. Goings*, 37 ECAB 781 (1986).

⁴ A.M.A., *Guides* (4th ed. 1993).

using the formula for monaural loss. The lesser loads 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

The Office medical adviser properly applied the A.M.A., *Guides* to both the December 4, 1998 and January 12, 2000 audiograms, and properly determined that neither showed a ratable hearing loss.

In reviewing appellant's December 4, 1998 audiogram, the Office medical adviser noted that the frequency levels recorded at 500, 1,000, 2,000 and 3,000 hertz for the left ear reveal decibel losses of 5, 5, 5 and 45, respectively, for a total of 60 decibels. When this figure is divided by 4, the result is an average hearing loss of 15 decibels. The average loss of 15 is reduced by 25 decibels amounts to a number less than 0. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibel losses of 5, 5, 5 and 20 decibels respectively for a total of 35 decibels. Using the same formula results in a zero percent monaural loss for the right ear.

Similarly, on reconsideration the Office medical adviser reviewed the January 12, 2000 audiogram. This audiogram recorded for 500, 1,000, 2,000 and 3,000 hertz for the left ear decibel losses of 20, 15, 15 and 40, respectively, for a total of 90 decibels. When this figure is divided by 4, the result is an average hearing loss of 22.5 decibels, which is still less than the fence of 25 decibels, and would therefore amount to a 0 percent impairment for the left ear. Similarly, the figures at those same frequency levels recorded in the right ear show hearing losses of 20, 15, 15 and 25 decibels, for a total of 75, which averaged to 18.75, which is less than the 25 decibel fence, and accordingly, evidenced no ratable hearing impairment.

Therefore, the Board finds that the Office properly evaluated the medical evidence in concluding that appellant did not have a compensable hearing loss in this case. Although appellant has sustained an employment-related loss of hearing, it is not sufficient to be ratable for purposes of entitlement to a schedule award under the Act.⁶

⁵ *Id.* at 224.

⁶ *Royce L. Chute*, 36 ECAB 202 (1984).

The March 30, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
April 4, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member