

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICKY D. HICKS and DEPARTMENT OF THE ARMY,
RED RIVER ARMY DEPOT, Texarkana, TX

*Docket No. 01-1195; Submitted on the Record;
Issued December 27, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant sustained a ratable hearing loss for schedule award purposes.

On January 16, 2001 appellant, then a 53-year-old mechanic, filed an occupational disease claim alleging that he sustained bilateral hearing loss as a result of exposure to loud work noise in the performance of duty.¹

The Office of Workers' Compensation Programs referred appellant, together with a statement of accepted facts, for evaluation by Dr. Charles Hollingsworth, a Board-certified otolaryngologist. In a report dated February 21, 2001, Dr. Hollingsworth stated that a physical examination performed on October 11, 2000 revealed moderate to severe bilateral sensorineural hearing loss with no hearing impairment in either ear. He concluded that appellant was not a candidate for hearing aids as there was no impairment in either ear.

An audiogram dated February 21, 2001, which was submitted with Dr. Hollingsworth's report, indicated testing at 500, 1,000, 2,000 and 3,000 hertz and revealed in the right ear losses of 10, 19, 15 and 30 decibels respectively and in the left ear losses of 10, 10, 10 and 30 decibels respectively.

An Office medical adviser reviewed appellant's February 21, 2001 audiogram, as well as the complete report of Dr. Hollingsworth, and applied the Office's standardized procedures to calculate a nonratable monaural hearing loss in both ears. He reported that appellant had a bilateral high frequency hearing loss contributed to by the conditions of his federal employment, but this was not ratable for the purpose of determining a schedule award.

¹ Appellant has not worked with the employing establishment since November 29, 1991.

By decision dated March 15, 2001, the Office advised appellant that his claim for a hearing loss due to his employment-related noise exposure had been accepted. However, the Office found that appellant was not entitled to a schedule award as the medical evidence of record failed to establish that he sustained a ratable hearing loss.

The Board finds that appellant does not have a ratable hearing loss for schedule award purposes.

Section 8107 of the Federal Employees' Compensation Act² provides that, if there is permanent disability involving the loss or loss of use of a specific enumerated member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.³ The Act does not specify the manner by which the percentage of impairment for a schedule award shall be determined. The Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard for evaluating schedule losses.⁴

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 cycles per second. 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 speech in everyday conditions. 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

In this case, the Office medical adviser applied the Office's standardized procedures to the audiogram obtained for Dr. Hollingsworth's examination. Testing for the right ear at 500, 1,000, 2,000 and 3,000 hertz revealed hearing threshold levels of 10, 10, 15 and 30 decibels respectively.⁶ These losses total 65 for an average of 16.25 decibels. Reducing this average by 25 decibels leaves a balance of 0 decibels, meaning that no impairment is presumed to exist in appellant's ability to hear with his right ear, everyday sounds under everyday listening conditions.

² 5 U.S.C. §§ 8101-8193; § 8107.

³ *Id.* This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

⁴ 20 C.F.R. § 10.404.

⁵ See A.M.A., *Guides* 224 (5th ed. 2000); FECA Bulletin No. 01-05 (issued January 29, 2001).

⁶ The Board notes that the Office medical adviser erroneously noted testing of 0 at the 2,000 hertz level when it should have been 10. This error is harmless as loss total divided by 4 and subtracted by 25 still leaves a balance of 0 decibels.

Testing for the left ear at 500, 1,000, 2,000 and 3,000 hertz revealed hearing threshold levels of 10, 10, 10 and 30 decibels respectively. These losses total 60 for an average of 15 decibels. Reducing this average by 25 decibels (as discussed earlier) leaves a balance of 0 decibels, meaning that no impairment is presumed to exist in appellant's ability to hear with his left ear, everyday sounds under everyday listening conditions.

Consequently, although appellant has sustained a hearing loss in both ears as a result of his occupational exposure to hazardous noise, the Office medical adviser properly found that appellant's hearing loss is not severe enough under the protocols of the A.M.A., *Guides* to constitute a compensable impairment. It is for this reason that appellant is not entitled to a schedule award.

The March 15, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 27, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member