

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM J. BRADY and DEPARTMENT OF THE ARMY,
CORPS OF ENGINEERS, Fort Worth, TX

*Docket No. 00-739; Submitted on the Record;
Issued February 14, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for a schedule award for hearing loss.

On February 4, 1999 appellant, then a 50-year-old power plant senior mechanic, filed an occupational disease claim, alleging that he sustained permanent hearing loss while in the performance of duty. He did not stop work. On September 1, 1999 appellant filed a claim for a schedule award.

In a statement of accepted facts dated May 19, 1999, the Office noted that appellant's job as a power plant senior mechanic from 1984 until the present required appellant to perform job duties in a hydroelectric powerhouse where he was exposed to constant high level noise associated with various pumps inside a wheel pit and generator housing.

By letter dated June 30, 1999, the Office referred appellant to Dr. Peter S. Roland, a Board-certified otolaryngologist, for an otologic examination and audiological evaluation. The Office provided Dr. Roland with a statement of accepted facts, available exposure information, and copies of all medical reports and audiograms.

Dr. Roland performed an otologic evaluation of appellant on August 3, 1999 and audiometric testing was conducted on the his behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 10, 5, 5 and 5 decibels; left ear 5, 5, 20 and 30 decibels. Dr. Roland determined that appellant sustained neurosensory hearing loss.

On August 23, 1999 the Office notified appellant that his claim had been accepted for bilateral hearing loss.

On August 26, 1999 an Office medical adviser reviewed Dr. Roland's report and concluded that appellant sustained hearing loss which was caused or made worse by exposure to

occupational noise. However, the medical adviser determined that appellant's hearing loss was not severe enough to be ratable for a schedule award. Based on the results of the August 3, 1999 audiology test, Dr. Roland determined that appellant had a 0 percent monaural hearing loss in both ears. The medical adviser noted that the August 3, 1999 audiogram was used for adjudication as it met all Office standards.

By decision dated October 4, 1999, the Office determined that appellant's hearing loss was not severe enough to be considered ratable for purposes of a schedule award.

The Board finds that the Office properly denied appellant's claim for a schedule award for hearing loss.

Section 8107(c) of the Federal Employees' Compensation Act¹ specifies the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage of loss of a member, function or organ shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.² 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.³

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added up and averaged and a "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 sounds under everyday conditions. Each amount is then multiplied by 1.5. The amount of the better ear is multiplied by five and added to the amount from the worse ear. The entire amount is then divided by six to arrive at a percentage of binaural hearing loss.⁴ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss for schedule award purposes.⁵

In addition, the Federal Procedure Manual requires that all claims for hearing loss due to acoustic trauma require an opinion from a Board-certified specialist in otolaryngology.⁶ The procedure manual further indicates that audiological testing is to be performed by persons

¹ 5 U.S.C. §§ 8101-8193, § 8107(c).

² *Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

³ *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

⁴ P. 166 (4th ed. 1994).

⁵ See *Goings*, *supra* note 2.

⁶ Federal (FECA) Procedural Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d)(6) (June 1995).

possessing certification from the American Speech Language Hearing Association (ASHA) or state licensure as an audiologist.⁷

An Office medical adviser applied the Office's standardized procedures to the August 3, 1999 audiogram performed for Dr. Roland. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibels losses of 10, 5, 5 and 5 respectively. These decibels were totaled at 25 and were divided by 4 to obtain an average hearing loss at those cycles of 6.25 decibels. The average of 6.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent loss of hearing for the right ear.

Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibels losses of 5, 5, 20 and 30 respectively. These decibels were totaled at 60 and were divided by 4 to obtain the average hearing loss at those cycles of 15 decibels. The average of 15 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss for the left ear.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Roland's August 3, 1999 report and the accompanying audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss.⁸ The Board notes that the medical adviser properly selected the August 3, 1999 audiogram obtained by Dr. Roland and used its results for evaluation.

⁷ Federal (FECA) Procedural Manual, Part 3 -- Medical, *Requirement for Medical Reports*, Chapter 3.600.8(a)(2) (September 1994).

⁸ This decision does not affect appellant's entitlement to medical benefits for the accepted employment injury.

The October 4, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
February 14, 2001

Michael J. Walsh
Chairman

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member