

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD LUNDGREN and DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION, Columbia, SC

*Docket No. 00-1078; Submitted on the Record;
Issued February 12, 2001*

DECISION and ORDER

Before BRADLEY T. KNOTT, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has a ratable binaural hearing loss.

This is the second appeal before the Board. In the first appeal, the Board remanded the case for the Office of Workers' Compensation Programs to refer appellant to a Board-certified otolaryngologist for a rationalized medical opinion on the extent of appellant's hearing loss and its relationship to his employment.¹

On October 8, 1999 the Office accepted appellant's claim for hazardous noise-induced loss of hearing, finding that appellant's hearing loss was caused by exposure to firearms during his federal employment as a special agent from 1969 to 1997. However, the hearing loss was not severe enough to be considered ratable.

The district medical adviser applied the Office's standardized procedures to a September 13, 1999 audiogram performed by audiologist David P. Willis and signed by Dr. Rocco D. Cassone, a Board-certified otolaryngologist, who found "some noise sensitivity" and stated that appellant "will probably have a progressive hearing loss related to noise" and will require yearly audiometric evaluations.

The Board finds that appellant has no ratable binaural hearing loss.

The schedule award provisions of the Federal Employees' Compensation Act² set forth the number of weeks of compensation to be paid for the permanent loss of use of the members of the body that are listed in the schedule.³ The Act, however, does not specify the manner in

¹ *Donald M. Lundgren*, Docket No. 98-626 (issued July 22, 1999).

² 5 U.S.C. § 8101 *et seq.*

³ 5 U.S.C. § 8107.

which the percentage loss of a member shall be determined. The method used in making such a determination rests in the sound discretion of the Office.⁴ 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.”⁵

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.⁶ Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged.⁷ Then the “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 speech under everyday conditions.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ 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.¹⁰ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.¹¹

The district medical adviser applied the Office’s standardized procedures to the September 13, 1999 audiogram performed by audiologist Mr. Willis and found a zero percent hearing loss in both ears. Testing for the right ear revealed decibel losses of 15, 15, 15 and 15. These decibel losses were totaled at 60 and divided by 4 to obtain the average hearing loss to those cycles of 15. The average of 15 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 decibels for the right ear.

Testing for the left ear revealed decibel losses of 20, 15, 20 and 25 respectively. These decibel losses were totaled at 80 and divided by 4 to obtain the average hearing loss to those cycles of 20. The average of 20 decibels was then reduced by 25 decibels to equal 0 decibels for the left ear. Accordingly, pursuant to the Office’s standardized procedures, the district medical adviser determined that appellant had a nonratable loss of hearing in both ears. The district medical adviser diagnosed appellant with a “mild, monaural (left), sensorineural hearing loss with a schedule award of zero percent.”

⁴ *Richard Larry Enders*, 48 ECAB 184 (1996).

⁵ *Id.*

⁶ *Id.*

⁷ A.M.A., *Guides* 174-75 (4th ed. rev., 1993).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Donald A. Larson*, 41 ECAB 947, 951 (1990).

The Board finds that the district medical adviser applied the proper standards to the findings stated in Mr. Willis' audiogram performed on September 13, 1999. Since both ears were not ratable under these standards, appellant's hearing loss is not compensable.

If the hearing loss is determined to be nonratable for schedule award purposes, "other benefits will still be payable if any causally related hearing loss exists."¹² The Board finds that appellant is entitled to medical benefits. Dr. Cassone stated that appellant will require yearly audiometric evaluations for several years until his condition is stable. There is no medical evidence of record that he requires a hearing aid at this time.

The October 12, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 12, 2001

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member

¹² *Raymond H. VanNett*, 44 ECAB 480 (1993).