

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA C. GENTRY and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, San Francisco, CA

*Docket No. 00-2806; Submitted on the Record;
Issued July 26, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained more than a two percent permanent hearing loss, for which she received a schedule award.

The Board has duly reviewed the case record in this appeal and finds that this case is not in posture for decision.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulations² set forth the number of weeks of compensation to be paid for permanent loss of the members of the body listed in the schedule. However, the Act does not specify the manner in which the percentage loss of a member shall be determined. 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. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter the A.M.A., *Guides*) has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.

The Office of Workers' Compensation Programs evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides* using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added 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 under 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

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

² 20 C.F.R. § 10.404 (1999).

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.³

On July 7, 1997 appellant, then a 53-year-old retired letter sorting machine operator, filed an occupational disease claim alleging that she sustained a noise-induced hearing loss while in the performance of duty.

By decision dated February 18, 1999, the Office denied appellant's claim on the grounds that the evidence of record did not establish that her hearing loss was causally related to factors of her employment.

By decision dated October 21, 1999, the Office hearing representative remanded the case for further development.

By decision dated June 30, 2000, the Office accepted that appellant sustained a binaural hearing loss.

By decision dated August 18, 2000, the Office granted appellant a schedule award for four weeks based on a two percent binaural hearing loss.

In a report dated May 8, 2000, Dr. A.J. Hadeed, a Board-certified otolaryngologist, provided the results of otologic and audiometric testing and diagnosed binaural hearing loss. The audiogram obtained for Dr. Hadeed showed decibel losses of 25, 30, 45 and 65 for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The audiogram showed decibel losses of 20, 30, 45 and 60 in the left ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second.

In a report dated June 26, 2000, Dr. Brian E. Schindler, an otolaryngologist and Office medical consultant, stated: "It is a well-established medical fact that after noise exposure ceases, the hearing loss from noise exposure also ceases." He determined appellant's degree of hearing loss using the audiogram obtained for an examination of appellant by Dr. Barry C. Baron on March 31, 1998⁴ rather than the audiogram submitted with Dr. Hadeed's May 8, 2000 report and found that appellant had a two percent binaural hearing loss.

The Board held in *Adelbert E. Buzzell*⁵ that it is not a *per se* rule that noise-induced hearing loss does not progress following cessation of occupational noise exposure, but indicated that such a conclusion must be based on rationalized medical opinion. Therefore, this case must be remanded for further development.

³ FECA Program Memorandum No. 272 (issued February 24, 1986).

⁴ The audiogram obtained for Dr. Baron showed decibel losses of 10, 15, 35 and 50 for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second and decibel losses of 10, 15, 30 and 50 in the left ear.

⁵ 34 ECAB 96 (1982).

On remand the Office should obtain a rationalized medical report explaining the choice of a particular audiogram in this case and containing a determination of appellant's work-related hearing loss correctly based on the Office's standardized procedures.

The August 18, 2000 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this decision.

Dated, Washington, DC
July 26, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member