

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD F. GROVES and DEPARTMENT OF THE AIR FORCE,
AIR MOBILITY COMMAND, MacDILL AIR FORCE BASE, FL

Docket No. 00-776; Submitted on the Record;

Issued March 12, 2001

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

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

On July 11, 1999 appellant, then a 46-year-old supervisory electrician, filed an occupational disease claim, alleging that he sustained a bilateral hearing loss in the course of his federal employment. He stated that he first became aware of his loss in 1990. Medical and factual records in the record included test results from periodic audiograms administered by the employing establishment between June 22, 1995 and May 2, 1999.

By letter dated September 20, 1999, the Office of Workers' Compensation Programs referred appellant, the case record and a statement of accepted facts to Dr. Edward B. Kampsen, a Board-certified otolaryngologist, for otologic evaluation and audiometric testing.

Audiometric testing was conducted on his behalf on September 29, 1999. Testing at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed the following: right ear -- 5, 5, 5 and 5 decibels; left ear -- 5, 5, 15 and 25 decibels. The audiogram noted a calibration date of June 10, 1999.

In his report, Dr. Kampsen noted that appellant had normal hearing for the speech range and a high tone sensorineural hearing loss consistent with noise trauma. Dr. Kampsen stated that, at the present time, appellant's normal hearing would preclude him from receiving compensation. Additionally, he opined that appellant's hearing was unlikely to get any worse as long as he avoids further noise trauma.

The Office accepted the claim for bilateral sensorineural hearing loss.

In a report dated October 18, 2000, an Office medical adviser, applying the Office's standardized guidelines to the September 29, 1999 findings, determined that appellant did not have a ratable hearing loss.

By decision dated October 20, 1999, the Office determined that appellant sustained a hearing loss in the performance of duty, but that under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) the loss was not ratable. The Office also denied the claim for additional medical benefits.

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

The schedule award provision of the Federal Employees' Compensation Act¹ provides for compensation to employees sustaining impairment from loss, or loss of use of, specified members of the body.² The Act, however, does not specify the manner in which the percentage 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.³ 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.⁴ The A.M.A., *Guides* has been adopted by the Office⁵ and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁶

Under the A.M.A., *Guides*,⁷ 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.⁸ 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.⁹

The medical evidence of record does not support appellant's claim that he sustained a ratable hearing loss.

¹ 5 U.S.C. §§ 8101-8193.

² 5 U.S.C. § 8107.

³ See *Arthur E. Anderson*, 43 ECAB 691 (1992).

⁴ See *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

⁵ FECA Program Memorandum No. 272 (issued February 24, 1986); see *Jimmy B. Newell*, 39 ECAB 181 (1987).

⁶ *Danniel C. Goings*, 37 ECAB 781 (1986).

⁷ A.M.A., *Guides* (4th ed. 1993)

⁸ *Id.* at 224.

⁹ *Id.*; see also *Danniel C. Goings*, *supra* note 6.

The Office medical adviser applied the Office's standardized procedures to the September 29, 1999 audiogram obtained by Dr. Kampsen. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed losses of 5, 5, 5 and 5 decibels, respectively. These losses were totaled at 20 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 5.0 decibels. The average of 5.0 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 losses of 5, 5, 15 and 25 decibels.¹⁰ These losses were totaled at 50 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 12.5 decibels. The average of 12.5 was then reduced by 25 decibels, as discussed above, to equal 0 which indicated a 0 percent loss of hearing in the left ear. The Office medical adviser then computed the binaural hearing loss by multiplying the zero by five to equal zero, which was added to zero. Finally, the Office medical adviser divided this figure by six to arrive at a zero percent binaural hearing loss.

The Board finds that the Office medical adviser applied the proper standards, which are applied to all employees in hearing loss claims under the Act,¹¹ to the findings stated in Dr. Kampsen's October 4, 1999 report and the accompanying audiogram. This resulted in a calculation of a nonratable hearing loss. The record contains no other properly certified audiogram¹² indicating that appellant has a compensable hearing loss. Thus, while appellant clearly has an employment-related hearing loss, it is not ratable under the standards used by the Office for determining schedule awards.

¹⁰ The Office medical adviser apparently misread the 2,000, hertz left ear threshold as 10 decibels when it is actually 15 decibels. However, this is harmless error as the calculations set forth in this decision reflect the correct hearing losses but remain unratable under the A.M.A., *Guides*.

¹¹ See 5 U.S.C. § 8107(13).

¹² See *Joshua A. Holmes*, 42 ECAB 231, 236-37 (1990).

The October 20, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 12, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member