

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROGER K. CESKY and DEPARTMENT OF THE AIR FORCE,
MacDILL AIR FORCE BASE, FL

*Docket No. 00-1854; Submitted on the Record;
Issued May 23, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

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

On May 3, 1999 appellant, then a 50-year-old general maintenance and operations supervisor, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he sustained bilateral hearing loss as a result of exposure to high noise levels in the performance of duty. He noted on his CA-2 claim form that throughout his employment history he worked daily with farm tractors, lawn mowers, jackhammers and around jet engine noise from airfield operations. Appellant noted that he was experiencing hearing problems especially after working all day on the flight line. He also indicated that he was exposed to hazardous noise from 1988 until the present time two to four hours per day.¹

In support of his claim, appellant submitted employment position descriptions, medical records and a November 2, 1998 audiogram performed through the employing establishment.

The Office referred appellant, together with a statement of accepted facts, for audiologic and otologic evaluation by Dr. Edward B. Kampsen, on October 15, 1999. In a report dated November 19, 1999, Dr. Kampsen stated that on physical examination the tympanic membranes were intact. He reported audiometric test results and opined that appellant has a high tone hearing loss compatible with noise injury.

An audiogram dated November 8, 1999, which was submitted along with Dr. Kampsen's November 19, 1999 report, indicated testing at 500, 1,000, 2,000 and 3,000 hertz (Hz) and revealed in the right ear: losses of 20, 20, 20 and 40 decibels (dBs) respectively; and in the left ear: losses of 15, 20, 20 and 40 dBs respectively.

¹ Appellant's supervisor verified and the Office of Workers' Compensation Programs accepted that appellant was exposed to hazardous noise in his job.

An Office medical adviser reviewed appellant's November 8, 1999 audiogram 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 mixed hearing loss aggravated by the conditions of appellant's federal employment, but which was not ratable for the purpose of determining a schedule award.

By decision dated January 11, 2000, 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 has duly reviewed the case record in the present appeal and finds that appellant does not have a ratable hearing loss for schedule award purposes.

The schedule award provisions of the Federal Employees' Compensation Act set forth the number of weeks of compensation to be paid for permanent loss of the use of the members listed in the schedule.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 determinations is a matter which rests in the sound discretion of the Office.³ However, as a matter of administrative practice and to ensure consistent results to all claimants, the Office has adopted and the Board has approved the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) as the uniform standard applicable to all claimants.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 Hz cycles per second. The losses at each frequency are added up and averaged and a "fence" of 25 dBs is deducted since, as the A.M.A., *Guides* points out, losses below 25 dBs 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 The Board has concurred in the Office's use of this new standard for evaluating hearing losses for schedule award purposes.⁶

In the instant case, the Office medical adviser applied the Office's standardized procedures to the audiogram obtained for Dr. Kampsen's examination. Testing for the right ear at 500, 1,000, 2,000 and 3,000 Hz revealed hearing threshold levels of 20, 20, 20 and 40 dBs respectively. These losses total 100 for an average of 25 dBs. Reducing this average by 25 dBs

² 5 U.S.C. § 8107.

³ *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁴ *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12, ECAB 324, 325 (1961).

⁵ See A.M.A., *Guides* 224 (4th ed. 1993); FECA Program Memorandum No. 272 (issued February 24, 1986).

⁶ *Daniel C. Goings*, *supra* note 3.

(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 right ear, everyday sounds under everyday listening conditions.

Testing for the left ear at 500, 1,000, 2,000 and 3,000 Hz revealed hearing threshold levels of 15, 20, 20 and 40 dBs respectively. These losses total 95 for an average of 23.75 dBs. Reducing this average by 25 dBs (as discussed earlier) leaves a balance of 0 dBs, 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 it is established in this case that appellant 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.⁷

The decision of the Office of Workers' Compensation Programs dated January 11, 2000 is hereby affirmed.

Dated, Washington, DC
May 23, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ Appellant submitted audiograms dated November 8, 1999 and November 2, 1998. The Board notes, however, that neither of these tests demonstrates a ratable hearing loss under the protocols of the A.M.A., *Guides*.