

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of STANLEY D. THORNTON and DEPARTMENT OF THE AIR FORCE,  
IDAHO AIR NATIONAL GUARD, Boise, ID

*Docket No. 00-2181; Submitted on the Record;  
Issued May 11, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
A. PETER KANJORSKI

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

On January 19, 1999 appellant, then a 47-year-old former sheet metal mechanic,<sup>1</sup> filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that he sustained a bilateral hearing loss in the course of his federal employment. Appellant stated he first became aware of his illness on September 10, 1991. Medical and factual records included in the record included test results from periodic audiograms performed by the employing establishment between December 22, 1969 and May 1, 1998.

By letter dated May 12, 1999, the Office of Workers' Compensation Programs referred appellant, the case record and a statement of accepted facts to Dr. Arthur C. Jones, III, a Board-certified otolaryngologist, for otologic evaluation and audiometric testing.

Dr. Jones performed otologic evaluation of appellant and audiometric testing was conducted on his behalf on May 28, 1999. Testing at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed the following: right ear -- 15, 15, 10 and 55 decibels (dBs); left ear -- 5, 5, 5 and 70 (dBs.) The audiogram noted a calibration date of December 14, 1998.

In his report, Dr. Jones noted that appellant has evidence of bilateral severe high frequency neurosensory hearing loss, with normal hearing to 2,000 hertz (Hz), then a marked precipitous drop in both ears at 3,000 Hz and higher. He opined that appellant's hearing loss was, in part or all, due to noise exposure encountered in his federal employment. Dr. Jones stated that appellant may want to explore hearing amplification in order to better understand human speech.

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<sup>1</sup> Appellant changed jobs in April 1997, due to a back injury. He is presently working in an office position in the maintenance operation center as a production controller.

The Office accepted the claim for bilateral sensorineural hearing loss.

In a report dated June 22, 1999, an Office audiology consultant reviewed the medical evidence of record. Applying the Office's standardized guidelines to the May 28, 1999 findings, the Office's audiology consultant determined that appellant did not have a ratable hearing loss for schedule award purposes. The consultant opined that a hearing aid was warranted.

By decision dated July 20, 1999, the Office determined that appellant sustained a hearing loss in the performance of duty but that, under the fourth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*<sup>2</sup> appellant's hearing loss was not ratable. The Office authorized appellant to receive additional medical benefits such as annual hearing examinations and informed appellant how to receive hearing aids.

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 Act provides for compensation to employees sustaining impairment from loss, or loss of use of, specified member of the body.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> The A.M.A., *Guides* has been adopted by the Office,<sup>6</sup> and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.<sup>7</sup>

Under the A.M.A., *Guides*,<sup>8</sup> hearing loss is evaluated by determining dBs loss at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz. 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 sounds in everyday listening conditions.<sup>9</sup> 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

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<sup>2</sup> A.M.A., *Guides* (4<sup>th</sup> ed. 1993).

<sup>3</sup> 5 U.S.C. § 8107.

<sup>4</sup> See *Arthur E. Anderson*, 43 ECAB 691 (1992).

<sup>5</sup> See *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

<sup>6</sup> FECA Program Memorandum No. 272 (issued February 24, 1986); see *Jimmy B. Newell*, 39 ECAB 181 (1987).

<sup>7</sup> *Danniel C. Goings*, 37 ECAB 781 (1986).

<sup>8</sup> A.M.A., *Guides* (4<sup>th</sup> ed. 1993).

<sup>9</sup> *Id.* at 224.

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.<sup>10</sup>

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

The Office audiology consultant applied the Office's standardized procedures to the May 28, 1999 audiogram obtained by Dr. Jones. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed losses of 15, 15, 10 and 55 dBs, respectively. These losses were totaled at 95 dBs and were divided by 4 to obtain the average hearing loss at those cycles of 23.75 dBs. The average of 23.75 dBs was then reduced by 25 dBs (the first 25 dBs 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 Hz revealed losses of 5, 5, 5 and 70 dBs. These losses were totaled at 85 dBs and were divided by 4 to obtain the average hearing loss at those cycles of 21.25 dBs. The average of 21.25 was then reduced by 25 dBs, 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,<sup>11</sup> to the findings stated in Dr. Jones' May 28, 1999 report and the accompanying audiogram. This resulted in a calculation of a nonratable hearing loss as set forth above. The record contains no other properly certified audiogram<sup>12</sup> indicating that appellant has a ratable 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 award entitlement.

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<sup>10</sup> *Id.*; see also *Danniel C. Goings*, *supra* note 7.

<sup>11</sup> See 5 U.S.C. § 8107(13).

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

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

Dated, Washington, DC  
May 11, 2001

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member