

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SANTOS FLORES and DEPARTMENT OF THE AIR FORCE,
KELLY AIR FORCE BASE, San Antonio, TX

*Docket No. 00-2421; Submitted on the Record;
Issued May 29, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

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

The Board has duly reviewed the case record and finds that appellant has failed to establish that he sustained a compensable hearing loss.

On January 18, 2000 appellant, then a 51-year-old electroplater, filed a claim alleging that he sustained an employment-related hearing loss in his right ear. Appellant stated that he was exposed to noise from a sandblaster and worked around tanks with an air extractor.¹ Appellant's claim was accompanied by employing establishment audiogram reports, documents providing his employment history and noise exposure and a narrative statement from his supervisor, who indicated that appellant had been working in a noise-filled area for the last 10 years that he had known appellant.

By letter dated February 9, 2000, the Office of Workers' Compensation Programs referred appellant, a statement of accepted facts and the medical records to Dr. Jesse Moss, a Board-certified otolaryngologist, to determine whether appellant had any employment-related hearing loss.

Based on Dr. Moss' March 28, 2000 opinion that appellant had employment-related bilateral hearing loss, the Office accepted appellant's claim for bilateral hearing loss.

On April 30, 2000 an Office medical adviser reviewed appellant's records, including Dr. Moss' report, and determined that appellant had a zero percent bilateral hearing loss based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.

¹ The record reveals that appellant worked at the employing establishment from December 1988 through September 1999 when he was laid off.

By decision dated May 4, 2000, the Office found that appellant was not entitled to a schedule award because his hearing loss was not ratable under the standards of the fourth edition of the A.M.A., *Guides*.

The schedule award provisions of the Federal Employees' Compensation Act² set forth the number of weeks of compensation to be paid for permanent loss of use of the members listed in the schedule. The Act, however, does not specify the manner in which the percentage of loss of a member shall be determined. The method used in making such determination is a matter that 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 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 hertz (Hz). 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 speech in everyday conditions.⁵ The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. The binaural hearing 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.⁶

The report of Dr. Moss, a Board-certified otolaryngologist and second opinion physician, noted that audiometric testing of the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 on March 14, 2000 revealed decibel losses of 15, 25, 25 and 35 respectively, and that testing of the left ear at the above frequency levels revealed decibel losses of 15, 15, 15 and 45 respectively. Based on this otologic evaluation of appellant, Dr. Moss opined that appellant had normal hearing through 2,000 Hz with mild to profound sensorineural high frequency hearing loss bilaterally.

The Office medical adviser applied the Office's standard procedures for evaluating hearing loss to the results of Dr. Moss' March 14, 2000 audiogram. Testing of the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 revealed decibel losses of 15, 25, 25 and 35 respectively. These decibel losses were totaled at 100 and divided by 4 to obtain the average hearing loss at those cycles of 25 decibels. The average of 25 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.

² See generally 5 U.S.C. §§ 8101-8193.

³ *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 29 ECAB 398 (1977).

⁴ *Jimmy B. Newell*, 39 ECAB 181 (1987).

⁵ A.M.A., *Guides*, (4th ed. 1993).

⁶ *Id.*; see also *Daniel C. Goings*, *supra* note 3.

Testing of the left ear at the same frequency levels revealed decibel losses of 15, 15, 15 and 45 respectively. These decibel losses were totaled at 90 and divided by 4 to obtain the average hearing loss at those cycles of 22.5 decibels. The average of 22.5 decibels was then reduced by 25 decibels to equal 0, which was multiplied by 1.5 to compute a 0 percent loss of hearing for the left ear. Accordingly, the Office medical adviser determined that appellant had a zero percent binaural sensorineural hearing loss. The Board finds that the Office medical adviser properly applied the standards to the March 14, 2000 audiogram in determining that appellant had a zero percent binaural hearing loss.

The May 4, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 29, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member