

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LANDON C. SMITH and DEPARTMENT OF THE ARMY,  
CIVILIAN PERSONNEL OFFICE, Fort Hood, TX

*Docket No. 01-627; Submitted on the Record;  
Issued September 13, 2001*

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DECISION and ORDER

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

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

On October 14, 1999 appellant, then a 56-year-old retired electronics technician, filed a notice of occupational disease and claim for compensation alleging that he sustained reduced hearing in both ears with loud ringing as a result of exposure to hazardous noise during his federal employment. In a statement supporting his claim, appellant asserted that he worked as an electronic technician from 1973 to 1990 and was exposed to noise from the following sources: mixers, baggers, conveyors, F-111 fighter bomber aircraft, F-106 fighter interceptor and VRC-12 series tactical radio. He stated that, from 1973 to 1979, he was exposed to 8 hours of noise per day 5 days per week; from 1979 to 1982 noise exposure was 2 hours per day 5 days per week; and from 1982 to 1990, he was exposed to 1 hour per day of noise 5 days a week.

In support of his claim, appellant submitted the results of the annual audiograms administered as a condition of his employment.

The Office of Workers' Compensation Programs referred appellant, together with a statement of accepted facts, for evaluation by Dr. Joseph M. Leary, a Board-certified otolaryngologist. In a report dated June 12, 2000, Dr. Leary stated that a physical examination performed on the same day revealed normal appearing tympanic membranes and external auditory canals. Dr. Leary reported audiometric test results, also performed on June 12, 2000, and reviewed the results of appellant's past audiometric testing. He concluded that, while appellant suffered from high frequency sensorineural hearing loss, symmetrical, it was most consistent with presbycusis or hereditary predisposition. He recommended a repeat audiogram within a year's time, continued use of hearing protection and would not recommend amplification at this time.

An audiogram dated June 12, 2000, which was submitted with Dr. Leary's report, indicated testing at 500, 1,000, 2,000 and 3,000 hertz and revealed in the right ear losses of 0, 10, 10 and 20 decibels respectively and in the left ear losses of 0, 15, 5 and 15 decibels respectively.

An Office medical adviser reviewed appellant's June 12, 2000 audiogram, as well as the complete report of Dr. Leary, 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 hearing loss contributed to by the conditions of his federal employment, but this was not ratable for the purpose of determining a schedule award. He further noted that hearing aids were not recommended by Dr. Leary.

By decision dated September 18, 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. Appellant was further advised that, as the weight of the medical evidence establishes that he would not benefit from hearing aids, his claim for additional benefits is also denied.

The Board finds that appellant does not have a ratable hearing loss for schedule award purposes.

The schedule award provisions of the Federal Employees' Compensation Act<sup>1</sup> and its implementing regulation<sup>2</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss 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* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

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. 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. 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.<sup>3</sup> The

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.404 (1999).

<sup>3</sup> See A.M.A., *Guides* 224 (4<sup>th</sup> ed. 1993); FECA Program Memorandum No. 272 (issued February 24, 1986).

Board has concurred in the Office's use of this standard for evaluating hearing losses for schedule award purposes.<sup>4</sup>

In this case, the Office medical adviser applied the Office's standardized procedures to the audiogram obtained from Dr. Leary's examination. Testing for the right ear at 500, 1,000, 2,000 and 3,000 hertz revealed hearing threshold levels of 0, 10, 10 and 20 decibels respectively. These losses total 40 for an average of 10 decibels. Reducing this average by 25 decibels 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 hertz revealed hearing threshold levels of 0, 15, 5 and 15 decibels respectively. These losses total 35 for an average of 8.75 decibels. Reducing this average by 25 decibels (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 left ear, everyday sounds under everyday listening conditions.

Consequently, although appellant has 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.<sup>5</sup> Additionally, since there is no objective evidence designating a need for hearing aids, appellant is not entitled to additional medical benefits.

The decision of the Office of Workers' Compensation Programs dated September 18, 2000 is hereby affirmed.

Dated, Washington, DC  
September 13, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>4</sup> *Daniel C. Goings*, 37 ECAB 781 (1986).

<sup>5</sup> *Id.*