

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GILBERT M. GARCIA and DEPARTMENT OF THE AIR FORCE,
KELLY AIR FORCE BASE, San Antonio, TX

*Docket No. 01-1937; Submitted on the Record;
Issued August 9, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On July 20, 2000 appellant, then a 55-year-old welder, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that he sustained a hearing loss in the course of his federal employment. Appellant stated that he first became aware of his illness in February 1994, but that the illness was caused or aggravated by his employment in February 1990. On the reverse of the form, the employing establishment noted that it was attempting to locate appellant's last supervisor for input relating to appellant's claim. In a letter dated July 11, 2000, Abelaido Del Soro, appellant's former supervisor, indicated that appellant was exposed to welding machines eight hours a day five days a week from January 3, 1998 to July 3, 1999. He noted that appellant was exposed to sheetmetal shop, forklifts and grinding. Mr. Del Soro further noted that earplugs and earmuffs were provided for appellant. Medical and factual evidence in the case record included chronological test results from hearing tests.

By letter dated November 30, 2000, the Office of Workers' Compensation Programs referred appellant, the case record and a statement of accepted facts to Dr. Michael Bertino, a Board-certified otolaryngologist, for otologic evaluation and audiometric testing.

On December 18, 2000 Dr. Bertino performed an otologic evaluation of appellant and an audiometric test was conducted on the doctor's behalf. Testing at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed the following: right ear -- 10, 5, 10 and 25 decibels; left ear -- 10, 5, 0 and 10 decibels. The audiogram results noted a calibration date of March 8, 2000.

In his report, Dr. Bertino diagnosed appellant with high frequency sensorineural hearing loss of the right ear. He checked the box that appellant's sensorineural hearing loss in his opinion was "not due" to his federal employment because the hearing loss was not symmetrical. He recommended sound protection.

In a report dated February 27, 2001, an Office medical adviser reviewed the medical evidence of record. Applying the Office's standardized guidelines to the December 18, 2000 findings, the medical adviser determined that appellant did not have a ratable hearing loss.

By decision dated June 29, 2001, the Office accepted appellant's claim and 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* (A.M.A., *Guides*), appellant's hearing loss was not ratable.

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

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.¹ 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.² However, as a matter of administrative practice and to ensure consistent results to all claimants, the Office has adopted and the Board has approved of the A.M.A., *Guides* as the uniform standard applicable to all claimants.³

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁴ Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged.⁵ Then, the "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.⁶ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁷ 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.⁸ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁹

¹ 5 U.S.C. § 8107.

² *Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

³ *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

⁴ A.M.A., *Guides* at 250 (5th ed. 2001).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Donald E. Stockstad*, 53 ECAB ____ (Docket No. 01-1570, issued January 23, 2002).

In the instant case, the Office medical adviser applied the Office's standardized procedures to the audiogram obtained for Dr. Bertino's examination. Testing for the right ear at 500, 1,000, 2,000 and 3,000 cycles per second revealed hearing threshold levels of 10, 5, 10 and 25 decibels respectively. These losses total 50 for an average of 12.5 decibels. Reducing this average by 25 decibels (as discussed earlier) leaves a balance of -- 12.5 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 cycles per second revealed hearing threshold levels of 10, 5, 0 and 10 decibels respectively. These losses total 25 for an average of 6.25 decibels. Reducing this average by 25 decibels (as discussed earlier) leaves a balance of -- 18.75 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 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.

The decision of the Office of Workers' Compensation Programs dated June 29, 2001 is affirmed.

Dated, Washington, DC
August 9, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member