

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HENRY G. BURGESS and DEPARTMENT OF THE AIR FORCE,
VANDENBERG AIR FORCE BASE, CA

*Docket No. 02-98; Submitted on the Record;
Issued July 25, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has more than a 17 percent monaural hearing loss for which he received a schedule award.

On May 23, 2000 appellant, then a 48-year-old supervisory firefighter, filed a claim for a hearing loss which he attributed to his exposure to noise in his federal employment. His claim was accepted by the Office of Workers' Compensation Programs for a bilateral sensorineural hearing loss. Following development of the medical evidence, the Office issued a schedule award on May 14, 2001 for a 17 percent permanent hearing loss of the left ear, which equated to 8.84 weeks of compensation.

The Board has duly reviewed the case record and finds that appellant has no more than a 17 percent permanent hearing loss of the left ear.

Section 8107 of the Federal Employees' Compensation Act specifies the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body.¹ The Act does not, however, specify the manner by which the percentage loss of a member, function or organ shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.² 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.³ The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent*

¹ 5 U.S.C. § 8107(c).

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

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

*Impairment.*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

In the present case, appellant was referred for audiological examination and audiometric evaluation to Dr. Richard Hendricks, a Board-certified otolaryngologist. In an August 23, 2000 report, Dr. Hendricks stated that audiometric testing performed on August 18, 2000 revealed high frequency sensorineural hearing loss, left greater than right, due to occupational noise exposure. The audiometric test results obtained for Dr. Hendricks revealed the following decibel losses at the 500, 1,000, 2,000 and 3,000 frequency levels: right ear of 10, 10, 10 and 20 decibels; left ear of 15, 15, 60 and 55 decibels.

On March 30, 2001 an Office medical adviser reviewed Dr. Hendrick’s findings and applied the Office’s standardized procedures to the August 18, 2000 audiogram. The losses at the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second were added up and averaged and the “fence” of 25 decibels was deducted. The remaining amount was multiplied by 1.5 to arrive at the percentage of monaural hearing loss. Testing for the right ear revealed hearing thresholds levels of 10, 10, 10 and 20 decibels. These losses total 50 for an average of 12.5 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 right ear, everyday sounds under everyday listening conditions. This is a nonratable hearing loss. Testing for the left ear revealed hearing threshold levels of 15, 15, 60 and 55 decibels. These losses total 145 for an average of 36.25 decibels. Reducing this average by 25 decibels (as discussed earlier) leaves a balance of 11.25 decibels, which, when multiplied by 1.5, results in a 16.9 percent hearing loss. The 16.9 percent hearing loss for the left ear was rounded up by the Office medical adviser to reflect a 17 percent total loss of hearing in the left ear. The Board

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).

finds that the Office medical adviser properly applied the A.M.A., *Guides* to the audiometric findings reported by Dr. Hendricks.¹⁰ There is no evidence that appellant has more than the 17 percent hearing loss of the left ear for which he received a schedule award.

On appeal, appellant contends that he is entitled to compensation for his tinnitus condition. However, while the A.M.A., *Guides* allow for an award for tinnitus under disturbances of vestibular function, no additional ratable permanent hearing loss above the 17 percent left ear hearing loss has been identified or documented in the medical evidence. There is no medical evidence that appellant's tinnitus was caused or contributed to by his federal employment noise exposure or that it has caused or contributed to his ratable hearing loss. Further, no evidence of dysequilibrium or evidence that appellant cannot perform his usual activities of daily living was presented.¹¹ Appellant would be entitled to compensation if it were established that his tinnitus resulted in a loss of wage-earning capacity; however, there is no evidence of record that appellant sustained a loss of wage-earning capacity as a result of his tinnitus.

The May 14, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
July 25, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

¹⁰ The Board notes that the record also contains the results of audiometric testing performed for appellant's treating physician, Dr. Don Regan, on May 10, 2000. This audiometric test revealed the following decibel losses at the 500, 1,000, 2,000 and 3,000 frequency levels: right ear of 5, 10, 5 and 35 decibels; left ear of 10, 15, 60 and 50 decibels. However, applying the Office's formula to the hearing levels recorded for Dr. Regan also yields a nonratable hearing loss for the right ear, and yields only a 13 percent loss of hearing in the left ear. Therefore, the Office medical adviser properly applied the Office's formula to Dr. Hendrick's more recent findings; *see Stacey L. Walker*, 48 ECAB 353 (1997).

¹¹ *Leonard J. Dragon, Sr.*, 48 ECAB 481 (1997); *Charles H. Potter*, 39 ECAB 645 (1988).