

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL J. POPP and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 02-345; Submitted on the Record;
Issued June 21, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

The Board has duly reviewed the evidence contained in the case record presented on appeal and finds that appellant does not have a ratable hearing loss causally related to factors of his federal employment.

The schedule award provisions of the Federal Employee's Compensation Act¹ and the implementing federal regulations² set forth the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body listed in the schedule.³ However, neither the Act nor the regulations specify the manner in which the percentage loss of a member, function or organ shall be determined. The method of determining this percentage rests in the sound discretion of the Office.⁴ To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.⁵

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.⁶ Using

¹ 5 U.S.C. § 8107 *et seq.*

² 20 C.F.R. § 10.304.

³ See *Donald A. Larson*, 41 ECAB 947 (1990); *Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁴ *Id.*

⁵ *Henry King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

⁶ A.M.A., *Guides* at 250 (5th ed. 2001).

the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged.⁷ 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.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ 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.¹⁰ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.¹¹

On April 9, 2001 appellant, a 55-year-old insulator foreman, filed a claim for benefits, alleging that he sustained a hearing loss causally related to factors of his federal employment. Appellant stated that he first became aware that he had sustained a hearing loss in November 1973.

By letter dated August 22, 2001, the Office referred appellant and a statement of accepted facts to Dr. James C. Rockwell, a Board-certified otolaryngologist, for an audiologic and otologic evaluation of appellant.

The audiologist performing the September 11, 2001 audiogram for Dr. Rockwell noted findings on audiological evaluation. At the frequencies of 500, 1,000, 2,000 and 3,000 hertz, the following thresholds were reported: right ear -- 10, 10, 0 and 5 decibels; left ear -- 10, 5, 5 and 50 decibels. In a report dated September 11, 2001, Dr. Rockwell reviewed the audiogram and concluded that appellant’s hearing test showed a binaural noise-induced sensorineural moderately severe hearing loss due to a history of noise exposure, but found that appellant had a zero percent hearing loss in each ear. Dr. Rockwell recommended hearing aids.

On October 9, 2001 an Office medical adviser reviewed Dr. Rockwell’s report and the audiogram taken for him and opined that appellant’s hearing loss was nonratable for schedule award purposes under the Office standards for evaluating hearing loss. Hearing aids were recommended for the left ear.

In a decision dated October 12, 2001, the Office accepted that appellant had an employment-related hearing loss but determined that appellant’s hearing loss was not sufficient to warrant a schedule award. The Office also indicated that hearing aids were authorized.

The Board finds that appellant does not have a ratable hearing loss causally related to factors of his federal employment.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Donald E. Stockstad*, 53 ECAB ____ (Docket No. 01-1570, issued January 23, 2002).

The Office medical adviser applied the Office's standardized procedures to the September 11, 2001 audiogram performed for Dr. Rockwell. Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed hearing losses of 10, 10, 0 and 5 decibels respectively. These decibels were totaled to 25 and were divided by 4 to obtain the average hearing loss at those cycles of 6.25 decibels. The average of 6.25 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 hearing loss in the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibel losses of 10, 5, 5 and 50 respectively. These decibels were totaled at 70 and were divided by 4 to obtain the average hearing loss at those cycles of 17.5 decibels. The average of 17.5 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 in the left ear. Accordingly, pursuant to the Office's standardized procedures, the Office's medical adviser and the consulting audiologist determined that appellant had a nonratable hearing loss in both ears.

The Board finds that the Office medical adviser applied the proper standards to the findings as stated in Dr. Rockwell's September 11, 2001 report, and the accompanying September 11, 2001 audiogram performed on his behalf. This resulted in a calculation of a nonratable hearing loss as set forth above. Consequently, the Board finds that the Office properly determined that appellant did not sustain a ratable hearing loss caused by factors of his federal employment.

The October 12, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
June 21, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member