

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JONES L. DANIELL and DEPARTMENT OF THE ARMY,
ANNISTON ARMY DEPOT, Anniston, AL

*Docket No. 02-1666; Submitted on the Record;
Issued November 21, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has greater than a six percent permanent impairment of his right ear, for which he has received a schedule award.

On October 29, 2001 the Office of Workers' Compensation Programs accepted that appellant, then a 58-year-old machinist, sustained bilateral hearing loss over the course of his 25-plus years of employment as a machinist exposed to hammers, lathes, grinders, presses, impact wrenches, saws, mills and other machinery. Appellant did not stop work.

On February 12, 2002 appellant requested a schedule award for his permanent loss of hearing.

The Office referred to the report of the second opinion examiner, Dr. H.W. Loveless, a Board-certified otolaryngologist, which was consistent in its findings with the findings in the most recent reports from the employing establishment's hearing conservation program,¹ and noted that appellant had the following auditory decibel losses at the given frequencies: at 500, 1,000, 2,000 and 3,000 cycles per second on the right appellant demonstrated the following results, respectively: 30, 5, 15 and 65; on the left he demonstrated the following results: 10, 10, 5 and 60. These decibel losses were analyzed by the Office medical adviser, who noted the date of maximum medical improvement as July 2, 2001² and, using the formula accepted by the Office for calculation of hearing losses, calculated that appellant had a six percent permanent impairment for hearing loss in his right ear but had an unratable impairment for hearing loss in his left ear.

¹ This second opinion report constitutes the weight of the medical evidence of record as it contains all of the indices of trustworthiness, air and bone conducting testing results, speech reception and discrimination thresholds, and reproducible pure tone audiometry results. It also contains physical examination results and a review of appellant's medical and factual history.

² The date of Dr. Loveless' examination.

On March 15, 2002 the Office granted appellant a schedule award for a six percent permanent impairment of his right ear due to loss of hearing for the period July 2 to 23, 2001 for a total of 3.12 weeks of compensation.

On appeal appellant argues that his claim was accepted for bilateral hearing loss, such that he should receive a schedule award for his left ear hearing loss as well.

The Board finds that appellant has no greater than a six percent permanent impairment of his right ear, for which he has received a schedule award.

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.³ 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.⁴ 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.⁵ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁶ 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.⁷ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.⁸

In this case, the weight of the medical opinion evidence of record is constituted by the second opinion evaluation,⁹ which was remarkably consistent with the most recent results from the employing establishment’s hearing conservation program’s audiometric testing results,¹⁰ which established that appellant had a noise-induced occupationally-related bilateral loss of hearing. The Office therefore accepted appellant’s claim for employment-related bilateral loss of hearing. The Office medical adviser then properly applied the A.M.A., *Guides*’ formula for calculating permanent hearing impairment to the audiometric results obtained by Dr. Loveless and determined that appellant had a ratable loss of hearing in his right ear equal to a six percent permanent impairment. The Office medical adviser also properly applied the formula to the employment-related decibel losses in appellant’s left ear, but determined that appellant’s decibel

³ A.M.A., *Guides* at 250 (5th ed. 2001).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Donald E. Stockstad*, 53 ECAB ____ (Docket No. 01-1570, issued January 23, 2002), *petition granted*, Docket No. 01-1570 (issued August 13, 2002).

⁹ There was no other probative physician’s opinion submitted.

¹⁰ These results were obtained by hearing conservation technicians without the required medical examination.

losses in the left ear were not severe enough to be ratable, such that he was not entitled to a schedule award for permanent impairment of his hearing in that ear.

The Board now reviews the evidence of record and concurs that appellant was entitled to a schedule award for a six percent permanent impairment for loss of hearing in his right ear but was not entitled to any schedule award as his loss of hearing in his left ear was not severe enough to be ratable under the applicable standards.

As appellant has not submitted any further medical evidence to establish that he has any greater impairment in either ear than that already compensated, he has not established entitlement to any greater schedule award.

Accordingly, the decision of the Office of Workers' Compensation Programs dated March 15, 2002 is hereby affirmed.

Dated, Washington, DC
November 21, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member