

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALBERT L. McDONALD, JR. and DEPARTMENT OF THE ARMY,
KENTUCKY ARMY NATIONAL GUARD, Fort Knox, KY

*Docket No. 02-1333; Submitted on the Record;
Issued October 23, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

On March 21, 2001 appellant, then a 52-year-old electronics mechanic, filed an occupational disease claim alleging that he sustained a bilateral hearing loss in the performance of duty. He indicated that he first became aware of his hearing loss in June 2000 and first realized that his condition could be employment related on September 25, 2000. The employing establishment acknowledged that appellant was exposed to hazardous noise levels.

In a report dated September 25, 2000, a physician diagnosed high frequency bilateral sensorineural hearing loss secondary to noise exposure with some presbycusis (age-related hearing loss).

In a report dated March 12, 2002, Dr. Donald Welsh, an otolaryngologist, to whom appellant was referred by the Office of Workers' Compensation Programs, diagnosed bilateral high frequency sensorineural hearing loss and provided the results of audiometric testing. The March 12, 2002 audiogram obtained for Dr. Welsh showed decibel losses of 10, 15, 15 and 25 for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The audiogram showed decibel losses of 15, 15, 20 and 30 in the left ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second.

In a report dated April 3, 2002, an Office medical adviser applied the test results from the March 12, 2002 report of Dr. Welsh to the Office's standardized procedures and determined that appellant had no ratable hearing loss.

By decision dated April 8, 2002, the Office found that appellant had an employment-related hearing loss but the hearing loss was not severe enough to be compensable.¹

The Board finds that appellant has not sustained a ratable hearing loss.

The schedule award provisions of the Federal Employees' Compensation Act² set forth the number of weeks of compensation to be paid for permanent loss of the members of the body listed in the schedule. The Act does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination rests in the sound discretion of the Office.³ However, for consistent results and to ensure equal justice 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.⁴

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.⁵ Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added and averaged.⁶ 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.⁷ The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss.⁸ 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.⁹ The Board has concurred in the Office's adoption of this standard for evaluating hearing losses.¹⁰

In this case, the March 12, 2002 audiogram obtained for Dr. Welsh showed decibel losses of 10, 15, 15 and 25 for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second for a total loss of 65 decibels. Dividing the total of 65 by 4 equals a 16.25 average

¹ The record contains additional evidence that was not before the Office at the time it issued its April 8, 2002 decision. The Board has no jurisdiction to review this evidence for the first time on appeal. See 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997).

² 5 U.S.C. §§ 8101-8193; see § 8107.

³ See *Danniel C. Goings*, 37 ECAB 781, 783 (1986); *Richard Beggs*, 28 ECAB 387, 390-91 (1977).

⁴ See *Henry L. King*, 25 ECAB 39, 44 (1973).

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

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Donald E. Stockstad*, 53 ECAB ____ (Docket No. 01-1570, issued January 23, 2002); *petition granted*, Docket No. 01-1570 (issued August 13, 2002).

hearing loss and reducing this 16.25 average loss by the “fence” of 25 decibels and multiplying by 1.5 equals a 0 percent hearing loss in the right ear according to the Office’s standardized procedures for determining hearing loss. The audiogram showed decibel losses of 15, 15, 20 and 30 in the left ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second for a total loss of 80 decibels. Dividing this total of 80 by 4 equals a 20 decibel average hearing loss and reducing this average by 25 decibels and multiplying by 1.5 equals a 0 percent hearing loss in the left ear. In order for there to be a compensable loss under the Act, the hearing loss in either ear must exceed an average of 25 decibels.¹¹ Therefore appellant is not entitled to compensation for hearing impairment under section 8107 of the Act.

The April 8, 2002 decision of the Office of Workers’ Compensation Programs is affirmed.

Dated, Washington, DC
October 23, 2002

Alec J. Koromilas
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

¹¹ See *Royce L. Chute*, 36 ECAB 202, 206 (1984).