

**United States Department of Labor  
Employees' Compensation Appeals Board**

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| <b>JACKIE R. HILL, Appellant</b>           | ) |                                  |
|  | ) |                                  |
| <b>and</b>                                 | ) | <b>Docket No. 03-2213</b>        |
|  | ) | <b>Issued: December 22, 2003</b> |
| <b>TENNESSE VALLEY AUTHORITY,</b>          | ) |                                  |
| <b>GALLATIN STEAM PLANT, Gallatin, TN,</b> | ) |                                  |
| <b>Employer</b>                            | ) |                                  |

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*Appearances:*  
*Jackie R. Hill, pro se*  
*Office of the Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
WILLIE T.C. THOMAS, Alternate Member  
MICHAEL E. GROOM, Alternate Member  
A. PETER KANJORSKI, Alternate Member

**JURISDICTION**

On September 8, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs merit decision dated June 4, 2003 denying his claim for an additional schedule award. Pursuant to 20 C.F.R. §§ 10.501.2(c) and 501.3, the Board has jurisdiction over the merits of the June 4, 2003 decision.

**ISSUE**

The issue is whether appellant sustained more than a 32 percent permanent binaural hearing loss for which he received a schedule award.

**FACTUAL HISTORY**

On November 27, 2000 appellant, then a 57-year-old former boilermaker, filed an occupational disease claim alleging that he sustained a work-related hearing loss. He last worked for the employing establishment in 1991 and his last exposure to industrial noise was in 1993 when he worked for a private employer.

In a report dated June 11, 2001, Dr. James Fordice, an otolaryngologist and an Office referral physician, diagnosed bilateral sensorineural hearing loss. The June 11, 2001 audiogram obtained for Dr. Fordice showed decibel losses of 30, 30, 55 and 70 for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second and decibel losses of 30, 40, 60 and 60 in the left ear.

In a report dated June 27, 2001, an Office district medical adviser reviewed the results of the audiometric testing performed for Dr. Fordice on June 11, 2001 and applied the Office's standardized procedures to this evaluation. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 30, 30, 55 and 70, respectively. These decibel losses totaled 185 decibels and were divided by 4 to obtain the average hearing loss 46.25 decibels. This average was then reduced by 25 decibels to equal 21.25 which was multiplied by the established factor of 1.5 to compute a 31.88 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 cycles per second revealed decibel losses of 30, 40, 60 and 60 respectively. These decibel losses were totaled at 190 decibels and were divided by 4 to obtain the average hearing loss of 47.50 decibels. This average was then reduced by 25 decibels to equal 22.50 which was multiplied by the established factor of 1.5 to compute a 33.75 percent hearing loss in the left ear. The binaural loss was determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss was multiplied by 5, then added to the greater loss and the total was divided by 6 to arrive at the amount of the binaural hearing loss, 32 percent.

On July 27, 2001 appellant filed a claim for a schedule award.

By decision dated October 3, 2001, the Office granted appellant a schedule award for a 32 percent permanent binaural hearing loss or 64 weeks of compensation.<sup>1</sup>

On April 10, 2003 appellant filed a claim for an additional schedule award.

Appellant submitted an audiogram dated February 5, 2003 showing decibel losses of 40, 50, 65 and 75 in the right ear and 40, 50, 55 and 70 in the left ear at the frequencies levels of 500, 1,000, 2,000 and 3,000 cycles per second.

In a report dated April 21, 2003, the Office's district medical adviser noted that the February 5, 2003 audiogram showed an increased hearing loss. He stated that appellant's last exposure to noise at work was in 1993 and noise-induced hearing loss does not progress after removal from the source of hazardous noise. The district medical adviser found that the increase in hearing loss was not work related.

By decision dated June 4, 2003, the Office denied appellant's claim for an additional schedule award.

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<sup>1</sup> Under the Federal Employees' Compensation Act, the maximum award for binaural hearing loss is 200 weeks of compensation. 5 U.S.C. § 8107(c)(13)(B). Since the binaural loss in this case is 32 percent, appellant is entitled to 32 percent of 200 weeks or 64 weeks of compensation.

## LEGAL PRECEDENT

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>2</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added and averaged.<sup>3</sup> 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.<sup>4</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>5</sup> 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.<sup>6</sup> The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.<sup>7</sup>

The Board has recognized that if a claimant’s employment-related hearing loss worsens in the future, the employee may apply for an additional schedule award for any increased impairment.<sup>8</sup> The Board has also recognized that a claimant may be entitled to an award for an increased hearing loss, even after exposure to hazardous noise has ceased, if causal relationship is supported by the medical evidence of record.<sup>9</sup>

## ANALYSIS

On October 3, 2001 the Office granted appellant a schedule award based on a 32 percent permanent binaural hearing loss. On April 10, 2003 he filed a claim for an additional schedule award and submitted a copy of a February 5, 2003 audiogram which showed increased hearing loss. The Office’s district medical adviser reviewed the audiogram and opionied that the increased hearing loss was not work related because noise-induced hearing loss does not progress after the removal from the source of the hazardous noise. However, as noted above, the Board has recognized that a claimant may be entitled to an award for an increased hearing loss, even after exposure to hazardous noise has ceased, if causal relationship is supported by the medical evidence of record. The Office failed to properly develop the medical evidence to

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<sup>2</sup> *Stuart M. Cole*, 46 ECAB 1011 (1995).

<sup>3</sup> A.M.A., *Guides* at 250 (5<sup>th</sup> ed. 2001).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Donald E. Stockstad*, 53 ECAB \_\_\_\_ (Docket No. 01-15700, issued January 23, 2002); *petition for recon. granted* (modifying prior decision), Docket No. 01-1570 (issued August 13, 2002).

<sup>8</sup> *Paul Fierstein*, 51 ECAB 381 (2000); *Paul R. Reedy*, 45 ECAB 488 (1994).

<sup>9</sup> *Id.*

determine whether appellant's increased hearing loss was causally related to his noise exposure while working at the employing establishment.

**CONCLUSION**

The Board, will, therefore, remand the case to the Office for further development of the medical record to ascertain whether appellant has an increased hearing loss and if his loss is causally related to his previously accepted employment exposure. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 4, 2003 is set aside and the case is remanded for further development consistent with this decision.

Issued: December 22, 2003  
Washington, DC

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member