

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MELVIN R. CHAFFIN and DEPARTMENT OF THE AIR FORCE,
OKLAHOMA CITY AIR LOGISTICS CENTER, TINKER AIR FORCE BASE, OK

*Docket No. 03-81; Submitted on the Record;
Issued February 21, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for a schedule award for hearing loss.

On October 22, 2001 appellant, then a 54-year-old aircraft production controller, filed a claim alleging that he sustained permanent hearing loss while in the performance of duty. Appellant became aware of his hearing loss on the same date.¹

Accompanying appellant's claim were audiograms dated May 3, 1972 to October 10, 2001 and employing establishment medical records dated January 17, 1984 to November 21, 1996.

By letter dated December 13, 2001, the Office requested additional medical evidence from appellant stating that the initial information submitted was insufficient to establish an injury.

In response to the Office's request, appellant submitted a narrative statement indicating that for approximately 30 years he worked in noise hazardous areas for 4 to 6 hours per day. He noted that he worked as an aircraft mechanic, aircraft mechanic training leader, aircraft foreman, aircraft progressman and aircraft production controller. Appellant indicated that he wore earplugs and earmuffs for hearing protection.

In a letter dated January 7, 2002, the employing establishment indicated that appellant worked as an aircraft production controller. Appellant was provided with all available hearing protection devices and training; however, he was exposed to high noise factors such as ground support equipment and engine runs of assigned aircrafts.

¹ The record reveals that appellant retired on October 26, 2001.

By letter dated January 10, 2002, the Office referred appellant to Dr. Richard Dawson, a Board-certified otolaryngologist, for otologic examination and audiological evaluation. The Office provided Dr. Dawson with a statement of accepted facts, available exposure information and copies of all medical reports and audiograms.

Dr. Dawson performed an otologic evaluation of appellant on February 19, 2002 and audiometric testing was conducted on the doctor's behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 20, 10, 20 and 40 decibels; left ear 15, 15, 20 and 45 decibels. Dr. Dawson determined that the previous audiograms were essentially normal but the present audiogram show an increase in sensorineural hearing loss. He noted that the workplace exposure was sufficient in intensity and duration to cause the loss in question. Dr. Dawson determined that appellant sustained a high tone sensorineural hearing loss which was a result of his workplace exposure to hazardous noise. He determined, in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5th ed. 2001), that appellant had zero percent monaural impairment on the right and zero percent impairment on the left for a zero percent bilateral hearing loss.

On May 10, 2002 an Office medical adviser reviewed Dr. Dawson's report and the audiometric test of February 19, 2002. The Office medical adviser concluded that appellant had zero percent binaural hearing loss. The Office medical adviser determined that appellant's hearing loss was not severe enough to be ratable for a schedule award after applying the Office's current standards for evaluating hearing loss to the results of the February 19, 2002 audiology test. Dr. Dawson determined that appellant had a zero percent monaural hearing loss in the left ear and zero percent monaural hearing loss in the right ear and no binaural hearing loss.

By decision dated May 20, 2002, the Office determined that the hearing loss was employment related but not severe enough to be considered ratable for purposes of a schedule award.

The Board finds that the Office properly denied appellant's claim for a schedule award for hearing loss.

The schedule award provisions of the Federal Employees' Compensation Act² and its implementing regulation³ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. 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. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁴

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404 (1999).

⁴ *Id.*

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁵ 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.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 a factor of 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 loss.¹⁰

An Office medical adviser applied the Office’s standardized procedures to the February 19, 2002 audiogram performed for Dr. Dawson. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibels losses of 20, 10, 20, and 40 respectively. These decibels were totaled at 90 and were divided by four to obtain an average hearing loss at those cycles of 22.5 decibels. The average of 22.5 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 of hearing for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibels losses of 15, 15, 20 and 45 respectively. These decibels were totaled at 95 and were divided by 4 to obtain the average hearing loss at those cycles of 23.75 decibels. The average of 23.75 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 for the left ear.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Dawson’s report and the February 19, 2002 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth above.¹¹

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 for recon. granted* (modifying prior decision), Docket No. 01-1570 (issued August 13, 2002).

¹¹ This decision does not affect appellant’s entitlement to medical benefits for the accepted employment injury.

The May 20, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
February 21, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member