

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOHNNY R. COCKRELL and DEPARTMENT OF THE AIR FORCE,  
ROBINS AIR FORCE BASE, Warner Robins, GA

*Docket No. 03-772; Submitted on the Record;  
Issued June 4, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
A. PETER KANJORSKI

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

On July 2, 2002 appellant, then a 58-year-old industrial engineering technician, filed an occupational disease claim (Form CA-2) alleging that he sustained hearing loss in both ears due to exposure to noise in the course of his federal employment. He stated that he first became aware that he had a hearing loss problem on January 1, 1992 and related it to his employment on July 1, 2002. The employing establishment stated that appellant is still exposed to the conditions alleged to have caused his hearing loss.

Accompanying the claim were appellant's job descriptions; personnel papers; appellant's July 2, 2002 statement describing his history of employment and the type of noise to which he was exposed; and a July 1, 2002 record of injury on which appellant identified his injury as loss of hearing due to years of working around aircraft engine noise.

On July 31, 2002 the Office of Workers' Compensation Programs received a July 8, 2002 occupational injury report by Dr. Anna Maria Abrigo, an occupational medicine specialist, who interviewed appellant and discussed his duties and exposure to noise and diagnosed hearing loss.

On August 16, 2002 the Office referred appellant, along with the case record, and a statement of accepted facts to Dr. Kenneth Walker, a Board-certified otolaryngologist, for an examination and evaluation of medical records.

On September 25, 2002 the Office received Dr. Walker's September 19, 2002 report of his examination of appellant that day, and the September 19, 2002 audiological evaluation performed for the doctor and certified by him. In his report, Dr. Walker discussed appellant's exposure to noise and stated that the audiogram revealed bilateral high frequency sensorineural

hearing loss which is consistent with long-term noise exposure “encountered in this claimant’s Federal civilian employment.”

Dr. Walker found that testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) were: in the right ear decibel (dB) levels of 5, 0, 0 and 25, respectively; and in the left ear, dB levels of 0, 5, -5 and 35, respectively.

The Office referred the record to an Office medical adviser for an opinion on whether appellant was entitled to a schedule award. In a September 27, 2002 report, the district medical adviser concurred with Dr. Walker’s findings. The Office medical adviser applied the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* to the findings of Dr. Walker to determine that appellant had a nonratable hearing loss bilaterally. The Office medical adviser indicated that the date of maximum medical improvement was September 19, 2002 and did not recommend hearing aids.

On October 7, 2002 the Office received a September 26, 2002 statement from the employing establishment describing appellant’s work history. On October 11, 2002 the Office received copies of audiograms covering the period 1968 through August 2002 and an October 2, 2002 memorandum by Angela S. Williamson, an audiologist and Director of the Hearing Conservation Center at the employing establishment, who after reviewing the employing establishment’s audiological records of appellant stated that appellant’s initial hearing test in 1968 was within normal limits in all frequencies in each ear and that he was tested through 1977 with the same results. Ms. Williamson further stated that the 2002 audiological record showed a very mild high frequency hearing loss in each ear. She concluded that appellant’s work environment did not cause significant hearing loss or hearing damage.

By decision dated January 16, 2003, the Office accepted appellant’s claim for a hearing loss due to his employment-related noise exposure. The Office determined, however, that appellant’s hearing loss was nonratable under the standards of the A.M.A., *Guides* and that, therefore, he was not entitled to a schedule award under the Federal Employees’ Compensation Act. The Office also found that appellant was not entitled to hearing aids or medical benefits.

The Board finds that appellant does not have a compensable hearing loss.

The schedule award provisions of the Act<sup>1</sup> and its implementing regulation<sup>2</sup> 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

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.404.

all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>3</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>4</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.<sup>5</sup> Then, the “fence” of 25 dBs is deducted because, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech under everyday conditions.<sup>6</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>7</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>8</sup> The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.<sup>9</sup>

The Office medical adviser concluded that, based on the September 19, 2002 report and audiogram of Dr. Walker, the Board-certified otolaryngologist to whom the Office referred appellant, appellant sustained an employment-related bilateral sensorineural hearing loss. He properly applied the Office’s standardized procedures to the September 19, 2002 audiogram performed for Dr. Walker. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed dB levels of 5, 0, 0 and 25, respectively. These dBs were totaled at 30 and were divided by 4 to obtain the average hearing loss at those cycles of 7.5 dBs. The average of 7.5 dBs were then reduced by 25 dBs (the first 25 dBs 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 cps revealed dB levels of 0, 5, 0<sup>10</sup> and 35, respectively. These dBs were totaled at 40 and were divided by 4 to obtain the average hearing loss at those cycles of 10 dBs. The average of 10 dBs were then reduced by 25 dBs (the first 25 dBs 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 left ear.

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<sup>3</sup> *Id.*

<sup>4</sup> A.M.A., *Guides* at 250 (5<sup>th</sup> ed. 2001).

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

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

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *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).

<sup>10</sup> The Board notes that testing at the frequency level of 2,000 cps was actually -5; however, in applying the A.M.A., *Guides*, the final results remain unchanged, *i.e.*, no compensable loss of hearing.

Accordingly, pursuant to the Office's standardized procedures, the Office medical adviser determined that appellant had a nonratable hearing loss in both ears.

The Board finds that the Office medical adviser properly applied the appropriate standards to the findings provided in Dr. Walker's report dated September 19, 2002 and the accompanying September 19, 2002 audiogram. This resulted in a calculation of a nonratable hearing loss as set forth above. The Board finds that the medical evidence of record, as represented by Dr. Walker, reveals that, although appellant had sustained an employment-related loss of hearing, it was not sufficiently great to be ratable for purposes of entitlement to a schedule award under the Act.<sup>11</sup>

The decision dated January 16, 2003 of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
June 4, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>11</sup> *Royce L. Chute*, 36 ECAB 202 (1984).