

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RONNIE D. NANCE and TENNESSEE VALLEY AUTHORITY,  
BROWNS FERRY NUCLEAR POWER PLANT, Decatur, AL

*Docket No. 02-1406; Submitted on the Record;  
Issued October 27, 2003*

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DECISION and ORDER

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

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

On July 28, 2001 appellant, a 47-year-old radioactive waste/removal worker, filed a claim for benefits, alleging that he sustained a bilateral hearing loss causally related to factors of his federal employment. He stated that he first became aware that he had sustained a hearing loss causally related to his employment on November 14, 2000.

On September 25, 2001 the Office of Workers' Compensation Programs referred appellant and a statement of accepted facts to Dr. Howard W. Loveless, a Board-certified otolaryngologist, for an audiologic and otologic evaluation of appellant.

The audiologist performing the October 15, 2001 audiogram for Dr. Loveless noted findings on audiological evaluation. At the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the following thresholds were reported: right ear -- 20, 20, 20 and 10 decibels: left ear -- 10, 20, 20 and 10 decibels. Dr. Loveless concluded that appellant had not sustained any ratable hearing loss attributable to noise exposure at his federal employment.

In a decision dated October 30, 2001, the Office found that appellant had not sustained a ratable hearing loss causally related to factors of his federal employment.

The Board finds that appellant does not have a ratable hearing loss causally related to factors of his federal employment.

The schedule award provisions of the Federal Employees' Compensation Act and the implementing federal regulations set forth the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body listed in the schedule. However, neither the Act nor the regulations specify the manner in which the percentage loss of a member, function or organ shall be determined. The method of determining

this percentage rests in the sound discretion of the Office. To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5<sup>th</sup> ed. 2001). Using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged. Then a “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 sounds under everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural loss. 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. The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.

The Office medical adviser applied the Office’s standardized procedures to the March 19, 2002 audiogram performed for Dr. Lovelace. Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed hearing losses of 20, 20, 20 and 10 respectively. These decibels, totaled to 70 and divided by 4, obtained the average hearing loss at those cycles of 17.50 decibels. The average of 17.50 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above) equals 0 which when multiplied by the established factor of 1.5 amounts to a 0 percent 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 10, 20, 15 and 10 respectively. These decibels, totaled to 55 and were divided by 4, obtained the average hearing loss at those cycles of 13.75 decibels. The average of 13.75 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above) equals 0 which when multiplied by the established factor of 1.5 amounts to a 0 percent loss in the left ear. Accordingly, pursuant to the Office’s standardized procedures, Dr. Lovelace and the consulting audiologist determined that appellant had a nonratable hearing loss in both ears.

The Board finds that Dr. Lovelace applied the proper standards to his findings as reflected by the October 15, 2001 audiogram performed on his behalf. This resulted in a calculation of a nonratable hearing loss as set forth above. Consequently, as appellant has failed to provide probative, supportable medical evidence to establish that he has sustained a ratable hearing loss, the Board finds that the Office properly determined that appellant did not sustain a ratable hearing loss caused by factors of his federal employment.

The October 30, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
October 27, 2003

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member