



On July 18, 2002 the Office referred appellant, together with a statement of accepted facts and the relevant evidence of record, to Dr. William C. Smith, a Board-certified otolaryngologist, for a second opinion evaluation. In his report dated August 12, 2002, Dr. Smith noted that appellant demonstrated near normal left ear results, but demonstrated low to mid frequency sensorineural hearing loss in the right ear. Dr. Smith further noted that appellant was exposed to sufficient noise in his employment to have caused noise-induced hearing loss.

On September 3, 2002 the Office forwarded Dr. Smith's report and audiometric test results to an Office medical adviser for a calculation of whether appellant was entitled to a schedule award. In his report dated September 29, 2002, the Office medical adviser found that appellant's hearing loss equated to a 7.5 percent hearing loss in the right ear.

On October 3, 2002 the Office accepted appellant's claim for noise-induced hearing loss in the right ear. On October 9, 2003 the Office issued a schedule award for a 7.5 percent permanent hearing loss of the right ear, which equated to 3.9 weeks of compensation.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act<sup>1</sup> specifies the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body. The Act does not, however, specify the manner, by which the percentage loss of a member, function or organ shall be determined.<sup>2</sup> The method used in making such a determination is a matter, which rests in the sound discretion of the Office.<sup>3</sup> 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.<sup>4</sup>

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>5</sup> 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.<sup>6</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>7</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>8</sup> The binaural

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<sup>1</sup> 5 U.S.C. § 8107(c).

<sup>2</sup> *Renee M. Straubinger*, 51 ECAB 667 (2000).

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

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

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

<sup>6</sup> A.M.A., *Guides* at 250 (5<sup>th</sup> ed. 2001).

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

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

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>9</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>10</sup>

### ANALYSIS

In the present case, appellant was referred for audiological examination and audiometric evaluation to Dr. Smith, a Board-certified otolaryngologist. In an August 12, 2002 report, Dr. Smith stated that audiometric testing performed on August 12, 2002 revealed low to mid frequency sensorineural hearing loss in the right ear and further stated that appellant's employment-related noise exposure would have been sufficient to cause hearing loss. The audiometric test results obtained for Dr. Smith revealed the following decibel losses at the 500, 1,000, 2,000 and 3,000 frequency levels: right ear of 30, 35, 40 and 15 decibels left ear of 30, 25, 15 and 20 decibels.

On March 30, 2001 an Office medical adviser reviewed Dr. Smith's findings and applied the Office's standardized procedures to the August 12, 2002 audiogram. The losses at the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second were added up and averaged and the "fence" of 25 decibels was deducted. The remaining amount was multiplied by 1.5 to arrive at the percentage of monaural hearing loss. Testing for the right ear revealed hearing threshold levels of 30, 35, 40 and 15 decibels. These losses total 120 for an average of 30 decibels. Reducing this average by 25 decibels (as discussed earlier) leaves a balance of 5 decibels, which when multiplied by 1.5, results in a 7.5 percent hearing loss. Testing for the left ear revealed hearing threshold levels of 30, 25, 15 and 20 decibels. These losses total 90 for an average of 22.5 decibels. Reducing this average by 25 decibels (as discussed earlier) leaves a balance of 0 decibels, meaning that no impairment is presumed to exist in appellant's ability to hear, with his left ear, everyday sounds under everyday listening conditions. This is a nonratable hearing loss. The Board finds that the Office medical adviser properly applied the A.M.A., *Guides* to the audiometric findings reported by Dr. Smith.<sup>11</sup> There is no evidence that appellant has more than the 7.5 percent hearing loss of the right ear, for which he received a schedule award.

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

<sup>10</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>11</sup> The Board notes that, while the record contains additional audiograms, the audiometric testing closest in time to Dr. Smith's testing was performed by an employing establishment technician on April 3, 2000. This audiometric test revealed the following decibel losses at the 500, 1,000, 2,000 and 3,000 frequency levels: right ear of 20, 35, 40 and 5 decibels; left ear of 15, 10, 5 and 10 decibels. However, applying the Office's formula to these hearing levels yields a nonratable hearing loss for both ears. Therefore, the Office medical adviser properly chose to apply the Office's formula to Dr. Smith's more recent findings, which he noted were in accordance with all of the Office's applicable standards; see *Stacey L. Walker*, 48 ECAB 353 (1997).

**CONCLUSION**

The Board finds that appellant has no more than a 7.5 percent permanent hearing loss of the right ear.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 9, 2003 is affirmed.

Issued: April 13, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member