

from generators, electric pumps, industrial shop vacuum cleaners, washing machines, air compressors, sump pumps, baling machines, steam cleaners and trucks. Appellant worked for 34 months as a radiological control technician on submarines and ships in noisy environments, beginning in August 1988.

A statement of accepted facts dated July 30, 2001 noted that appellant was exposed to noise in the following positions: (a) environmental protection specialist, November 1995 to present; (b) physical science technician, January 1993 to November 1995; (c) physical science aid, September 6, 1992 to January 25, 1993; (d) copier/duplicating equipment operator, June 1991 to September 6, 1992; (e) physical science aid, December 1989 to June 1991; and (f) physical science technician, August 1988 to December 1989.

In an audiologic and otologic evaluation dated August 28, 2001, Dr. Hugh N. Hazenfield, a Board-certified otolaryngologist, listed findings on audiometric testing that date. At the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second (cps), the following thresholds were reported: right ear -- 30, 25, 25 and 30 decibels; left ear -- 105, 105, 110 and 115 decibels. Based on these findings, Dr. Hazenfield concluded that appellant had a hearing loss of 3.80 percent in his right ear and a 100 percent loss in his left ear, which amounted to a 20 percent binaural hearing loss.

In a memorandum dated May 3, 2002, an Office medical adviser, relying on Dr. Hazenfield's audiogram results and calculations, determined that appellant had a 20 percent permanent binaural hearing loss.

On June 24, 2002 the Office granted appellant a schedule award for a 20 percent binaural hearing loss for the period August 27, 2001 to June 2, 2002, for a total of 40 weeks of compensation.

By letter dated December 14, 2003, appellant requested reconsideration of the June 24, 2002 Office decision.

On May 21, 2004 the Office referred appellant and a statement of accepted facts to Dr. Ronald Yet-Sing Chock, a Board-certified otolaryngologist, for an audiologic and otologic evaluation of appellant.

In a report dated June 10, 2004, Dr. Chock noted appellant's history of exposure to loud noise and discussed the findings of an audiogram performed on the date of examination. He diagnosed a sensorineural hearing loss, bilateral, worse in the left ear, but concluded it was not work related. Dr. Chock stated that appellant continued to work despite using earplugs and was still at risk for loud sound exposure in his environment especially to his right ear, which was his only good ear.

In a report dated July 23, 2004, an Office medical adviser referred the case file back to Dr. Chock so that he could determine whether any of appellant's hearing loss was causally related to his employment. An August 13, 2004 statement of accepted facts reiterated that appellant had been exposed to loud noise for the periods noted in the July 30, 2001 statement of accepted facts.

In a report dated September 28, 2004, Dr. Chock reiterated the findings and conclusions he made in his June 10, 2004 report. He stated that an audiogram was not performed during his September 9, 2004 examination because prior audiograms of December 13, 2003 and June 10, 2004 showed virtually no hearing in appellant's left ear, with a 100 percent hearing loss. In addition, the right ear on December 13, 2003 and June 10, 2004 showed identical high-frequency hearing loss; due to the short amount of time elapsed since June 10, 2004, Dr. Chock determined that it was not necessary to obtain another hearing test for the right ear.

In a report dated November 8, 2004, the Office medical adviser reviewed Dr. Chock's September 28, 2004 report and June 10, 2004 audiogram and noted findings on audiological evaluation. At the frequencies of 500, 1,000, 2,000 and 3,000 cps, the following thresholds were reported for the right ear -- 20, 25, 20 and 25 decibels. These calculations resulted in a zero percent hearing loss in appellant's right ear. The Office medical adviser, relying on these audiogram results and calculations, determined that appellant had a zero percent hearing loss in his right ear. In addition, the Office medical adviser stated that he concurred with Dr. Chock's opinion that appellant's 100 percent hearing loss in the left ear was not consistent with noise exposure, and that he was not entitled to an additional award greater than the 20 percent binaural hearing loss award the Office accorded appellant in its June 24, 2002 decision.

In a decision dated November 30, 2004, the Office found that appellant was not entitled to an additional schedule award for his hearing loss.

By letter dated December 22, 2004, appellant requested reconsideration of the November 30, 2004 Office decision.

By decision dated January 10, 2005, the Office denied appellant's request for reconsideration.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and the implementing federal regulation² sets 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.³ 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.⁴ To ensure consistent results and

¹ 5 U.S.C. § 8107 *et seq.*

² 20 C.F.R. § 10.304.

³ See *Donald A. Larson*, 41 ECAB 947 (1990); *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁴ *Id.*

equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.⁵

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 cps. The losses at each frequency are added up and averaged and a “fence” of 25 decibels is deduced since, as the A.M.A., *Guides* point out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions.⁶ Then the remaining amount is multiplied by 1.5 to arrive at the percentage loss 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 binaural hearing loss.⁷

ANALYSIS

The Board has long recognized that, if a claimant’s employment-related hearing loss worsens in the future, he may apply for an additional schedule award for any increased permanent impairment.⁸ In this case, the Office granted appellant an award for a 20 percent binaural hearing loss. With regard to the right ear, Dr. Chock’s June 10, 2004 audiogram indicated that, at the frequencies of 500, 1,000, 2,000 and 3,000 cps, the following thresholds were reported for the right ear -- 20, 25, 20 and 25 decibels. These decibels, totaled to 90 and divided by 4, obtained an average hearing loss at those cycles of 22.5 decibels. The average of 22.5 decibels, when reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 0 decibels, which when multiplied by the established factor of 1.5 computes a 0 percent hearing loss in the right ear. The Office medical adviser, relying on these audiogram results and calculations, properly determined that appellant had no additional hearing loss in his right ear and that he was not entitled to an additional award for a greater percentage of hearing loss than the award the Office accorded appellant in its June 24, 2002 decision.

The Board finds, however, that the Office did not award appellant the appropriate amount of compensation for his schedule loss. It is well established that, if calculations based on the monaural loss would result in greater compensation, the monaural loss should be used.⁹ Appellant’s 100 percent of left ear hearing loss entitles him to 52 weeks of compensation payable for the monaural hearing loss. The Board will modify the November 30, 2004 and January 10, 2005 Office decisions to find that appellant is entitled to a schedule award for 52 weeks of compensation.

⁵ *Henry King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

⁶ A.M.A., *Guides* 250 (5th ed. 2001).

⁷ *Id.* See also *Daniel C. Goings*, *supra* note 3.

⁸ *Paul R. Reedy*, 45 ECAB 488, 490 (1994).

⁹ See *Reynaldo R. Lichtenberger*, 52 ECAB 462 (2001).

CONCLUSION

The Board finds that appellant is entitled to an additional 12 weeks of compensation for his 100 percent left ear monaural hearing loss.

ORDER

IT IS HEREBY ORDERED THAT the January 10, 2005 and November 30, 2004 decisions of the Office of Workers' Compensation Programs are affirmed, as modified.

Issued: March 2, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board