

**United States Department of Labor
Employees' Compensation Appeals Board**

RAYMOND L. WRIGHT, Appellant)
and) Docket No. 06-255
TENNESSE VALLEY AUTHORITY, COLBERT) Issued: March 9, 2006
FOSSIL PLANT, Tuscumbia, AL, Employer)

)

Appearances:

Raymond L. Wright, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 14, 2005 appellant filed a timely appeal from the September 22, 2005 merit decision of the Office of Workers' Compensation Programs, which denied his claim for a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the schedule award issue.

ISSUE

The issue is whether appellant has a ratable hearing loss.

FACTUAL HISTORY

On December 18, 2002 appellant, then a 59-year-old assistant unit operator, filed a claim alleging that the noticeable hearing loss in his right ear was the result of his federal employment. The Office referred him, together with a statement of accepted facts, to Dr. Sage Copeland, an otolaryngologist, for evaluation.

On April 23, 2003 audiometric testing at 500, 1,000, 2,000 and 3,000 cycles per second revealed hearing thresholds of 15, 15, 20 and 35 decibels in the right ear and 10, 10, 10 and 15

decibels in the left. The test results were determined to be valid and representative of appellant's hearing acuity. Dr. Copeland diagnosed moderate high-frequency neurosensory loss bilaterally and indicated that this was due in part to noise exposure encountered in appellant's federal employment.

On August 14, 2003 the Office notified appellant that his claim was accepted for bilateral hearing loss. On October 8, 2003 appellant filed a claim for a schedule award.

On November 14, 2003 an Office medical adviser reviewed Dr. Copeland's findings and determined that appellant had no ratable impairment.

In a decision dated September 22, 2005, the Office denied appellant's claim for a schedule award, as he had no compensable impairment secondary to his industrial bilateral hearing loss.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.² 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. 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 listening conditions. The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing 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.³ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁴

ANALYSIS

According to the audiometry obtained on April 23, 2003, appellant's hearing thresholds were 15, 15, 20 and 35 decibels in the right ear and 10, 10, 10 and 15 decibels in the left.⁵ These

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999). Effective February 1, 2001 the Office began using the A.M.A., *Guides* (5th ed. 2001). FECA Bulletin No. 01-05 (issued January 29, 2001).

³ A.M.A., *Guides* 250 (5th ed. 2001).

⁴ Donald E. Stockstad, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

⁵ This audiogram shows a greater hearing loss than any of the previous hearing tests submitted by the employing establishment.

total 85 and 45 decibels, respectively, for averages of 21.25 and 11.25. Because these averages are below the “fence” of 25 decibels, appellant is deemed to have no impairment, according to the A.M.A., *Guides*, in the ability to hear everyday sounds under everyday listening conditions. So while he does have a measurable bilateral hearing loss as a result of his federal employment, the extent of that loss is not sufficient to constitute a practical impairment in hearing. For this reason, appellant is not entitled to a schedule award for permanent impairment.

CONCLUSION

The Board finds that appellant has no ratable impairment. The Office followed standardized procedures for evaluating hearing loss and properly denied appellant’s claim for a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the September 22, 2005 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: March 9, 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