

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

CHARLES W. KNIGHTON Appellant)
and) Docket No. 06-658
DEPARTMENT OF THE AIR FORCE,) Issued: May 22, 2006
ALABAMA AIR NATIONAL GUARD,)
Montgomery, AL, Employer)

)

Appearances:
Charles W. Knighton, 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 January 27, 2006 appellant filed a timely appeal from an Office of Workers' Compensation Programs' decision dated December 14, 2005, adjudicating his claim for a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant is entitled to a schedule award for permanent impairment due to his employment-related bilateral hearing loss.

FACTUAL HISTORY

On June 23, 2005 appellant, then a 54-year-old electronic integrated systems mechanic supervisor, filed an occupational disease claim alleging that he sustained bilateral hearing loss causally related to noise exposure at work.

The Office referred appellant to Dr. Robert J. Sciacca, a Board-certified otolaryngologist, for an examination on November 10, 2005. He provided an impression of mild to severe bilateral sensorineural hearing loss caused by noise exposure, as well as presbycusis. An audiogram performed on November 10, 2005 revealed the results of testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps): right ear decibels of 15, 25, 15 and 25; left ear decibels of 20, 20, 10 and 35.

On September 16, 2005 an Office medical adviser reviewed the results of the audiometric testing performed on November 10, 2005 for Dr. Sciacca and applied the Office's standardized procedures. He totaled the decibels of 15, 25, 15 and 25 in the right ear for the frequency levels of 500, 1,000, 2,000 and 3,000 cps at 80 decibels and divided by 4 to obtain the average hearing loss of 20 decibels. This average was then reduced by 25 decibels to equal 0 decibels which was multiplied by the established factor of 1.5 to compute a 0 percent impairment of the right ear. The Office medical adviser totaled the losses of 20, 20, 10 and 35 in the left ear at 85 decibels and divided by 4 to obtain the average hearing loss of 21.25 decibels. This average was then reduced by 25 decibels to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent impairment of the left ear. He indicated that appellant had a zero percent impairment bilaterally, according to the standardized Office procedures for determining entitlement to a schedule award. The extent of hearing loss was nonratable.

By decision dated December 14, 2005, the Office denied appellant's schedule award claim.

LEGAL PRECEDENT

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² sets 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 all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) has been adopted by the implementing regulation as the appropriate standard for evaluating losses.³

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A, *Guides*.⁴ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁵ Then, the "fence" of 25 decibels is deducted because, as

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

³ *Id.*

⁴ A.M.A., *Guides* 250 (5th ed. 2001).

⁵ *Id.*

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.⁶ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁷ 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.⁸ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁹

ANALYSIS

The Office's medical adviser reviewed the results of the audiometric testing performed on November 10, 2005 for Dr. Sciacca and correctly applied the Office's standardized procedures. He totaled the decibels of 15, 25, 15 and 25 in appellant's right ear for the frequency levels of 500, 1,000, 2,000 and 3,000 cps at 80 decibels and divided by 4 to obtain the average hearing loss of 20 decibels. This average was then reduced by 25 decibels to equal 0 decibels which was multiplied by the established factor of 1.5 to compute a 0 percent impairment of the right ear. He totaled the losses of 20, 20, 10 and 35 in the left ear at 85 decibels and divided by 4 to obtain the average hearing loss of 21.25 decibels. This average was then reduced by 25 decibels to equal 0 decibels which was multiplied by the established factor of 1.5 to compute a 0 percent impairment of the left ear. The Board finds that the Office medical adviser correctly determined that appellant had a zero percent impairment of the left and right ear. As appellant's hearing loss is nonratable, he has not established entitlement to schedule award compensation.

CONCLUSION

The Board finds that appellant is not entitled to a schedule award for his bilateral hearing loss. His hearing loss is not severe enough to be ratable under the Office's procedures for determining permanent impairment.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Donald E. Stockstad*, 53 ECAB 301 (2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 14, 2005 is affirmed.

Issued: May 22, 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