



engines, compressors, industrial vacuum cleaners and other machines. Appellant stopped work on February 23, 2006.<sup>1</sup> Appellant submitted several audiograms, dated between 1989 and 1995, which were obtained by nonphysicians.

In May 2006, the Office referred appellant to Dr. Emil P. Liebman, a Board-certified otolaryngologist, for otologic and audiologic testing and an evaluation of the extent of his hearing loss.

In a report dated June 28, 2006, Dr. Liebman reported the findings of the otologic and audiologic testing he performed on June 21, 2006. He concluded that appellant had a minimal high-frequency sensorineural hearing loss, which was secondary to his exposure to noise at work. Dr. Liebman stated that appellant's speech reception threshold and discrimination scores were normal. He attached a copy of a June 21, 2006 audiogram and a certificate of acoustic impedance/admittance meter calibration.<sup>2</sup>

The record contains a June 12, 2006 report, in which Dr. David N. Schwartz, an attending Board-certified otolaryngologist, stated that appellant was seen for evaluation of possible hearing loss. Dr. Schwartz indicated that "an audiogram reveals a mild to moderate high frequency sensorineural hearing loss worse in the left ear compared to the right." He attached a June 12, 2006 audiogram that was obtained in his office.<sup>3</sup>

On July 17, 2006 the Office district medical adviser reviewed the otologic and audiologic testing performed on appellant by Dr. Liebman and applied the Office's standardized procedures to this evaluation. The Office medical adviser determined that appellant did not have a ratable hearing loss under the relevant standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001).

The Office accepted that appellant sustained bilateral sensorineural hearing loss.

By decision dated July 18, 2006, the Office determined that appellant was not entitled to schedule award compensation for hearing loss.

---

<sup>1</sup> Appellant was terminated from the employing establishment due to medical disqualification related to knee problems.

<sup>2</sup> 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 20, 20, 20 and 35 respectively. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 20, 15, 15 and 25 respectively.

<sup>3</sup> 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 15, 10, 20 and 45 respectively. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 15, 10, 10 and 25 respectively.

## LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act<sup>4</sup> and its implementing regulation<sup>5</sup> 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 A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>6</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>7</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>8</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>9</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>10</sup> 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.<sup>11</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>12</sup>

## ANALYSIS

On July 17, 2006 the Office medical adviser reviewed the otologic and audiologic testing performed on appellant by Dr. Liebman, a Board-certified otolaryngologist and properly applied the Office's standardized procedures to this evaluation. 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 20, 20, 20 and 35 respectively. These decibel losses were totaled at 95 decibels and were divided by 4 to obtain the average hearing loss of 23.75 decibels. This average loss was then reduced by 25 decibels (25 decibels being discounted as discussed above) to equal a negative figure. Testing for the right ear

---

<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> 20 C.F.R. § 10.404 (1999).

<sup>6</sup> *Id.*

<sup>7</sup> A.M.A., *Guides* 224-25 (4<sup>th</sup> ed. 1993); A.M.A., *Guides* at 226-51 (5<sup>th</sup> ed. 2001).

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

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

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Donald Stockstad*, 53 ECAB 301 (2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 20, 15, 15 and 25 respectively. These decibel losses total 75 decibels and when divided by 4 result in an average hearing loss of 18.75 decibels. This average loss when reduced by 25 decibels (25 decibels being discounted as discussed above) equals a negative figure. The Office district medical adviser properly concluded that the calculations showed that appellant did not have a ratable hearing loss under the relevant standards of the A.M.A., *Guides*.

The record also contains a June 12, 2006 audiogram obtained by Dr. Schwartz, an attending Board-certified otolaryngologist. This audiogram does not show that appellant sustained a ratable hearing loss. It shows hearing loss levels that are even lower than those found in the June 21, 2006 audiogram obtained by Dr. Liebman.<sup>13</sup>

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish that he is entitled to schedule award compensation for hearing loss.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' July 18, 2006 decision is affirmed.

Issued: November 28, 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

---

<sup>13</sup> The June 12, 2006 audiogram showed total decibel loss on the left of 90 decibels (compared to 95 decibels in the June 21, 2006 audiogram) and total decibel loss on the right of 60 decibels (compared to 75 in the June 21, 2006 audiogram). The record contains several audiograms obtained by the employing establishment between 1989 and 1995, but none of these were certified by a physician as accurate. The Board has held that if an audiogram is prepared by an audiologist it must be certified by a physician as being accurate before it can be used to determine the percentage of hearing loss. See *Joshua A. Holmes*, 42 ECAB 231, 236 (1990).