

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

C.C., Appellant)

and)

DEPARTMENT OF THE AIR FORCE, ROBINS)
AIR FORCE BASE, GA, Employer)

**Docket No. 06-1336
Issued: September 27, 2006**

Appearances:
C.C., *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
JAMES A. HAYNE, Alternate Judge

JURISDICTION

On May 26, 2006 appellant filed a timely appeal from the February 21, 2006 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 merits of this claim.

ISSUE

The issue is whether appellant has a ratable hearing loss, entitling him to a schedule award for hearing impairment.

FACTUAL HISTORY

On October 13, 2005 appellant, then a 55-year-old sheet metal mechanic (aircraft), filed a claim alleging that his hearing loss was a result of his federal employment. He described his work history, and the employing establishment submitted his relevant medical records. The Office referred appellant, together with a statement of accepted facts, to Dr. Kenneth J. Walker, an otolaryngologist, for an evaluation of his hearing.

On February 6, 2006 Dr. Walker noted appellant's long-term exposure to machinery and guns and his history of progressive hearing loss over the past several years. He obtained an audiogram on January 31, 2006, which revealed a mild high-frequency sensorineural hearing loss bilaterally. He reported that the results of this audiogram were valid and representative of appellant's hearing sensitivity. Dr. Walker reported that it was his opinion that appellant's hearing loss was consistent with noise exposure and was due, at least in part, to noise exposure during federal employment. He recommended annual audiograms.

On February 27, 2006 an Office medical adviser reviewed the January 31, 2006 audiogram and determined that appellant had no ratable hearing loss in either ear.

In a decision dated February 21, 2006, the Office accepted appellant's claim for hearing loss but denied a schedule award for permanent impairment on the grounds that the loss was not severe enough to be considered ratable.

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 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 audiogram obtained by Dr. Walker on January 31, 2006, hearing thresholds in appellant's right ear at 500, 1,000, 2,000 and 3,000 cycles per second were 20, 20,

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.

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

10 and 10 decibels respectively, for a total of 60 and an average of 15. Hearing thresholds in his left ear at those same frequencies were 15, 15, 10 and 45 decibels respectively, for a total of 85 and an average of 21.25. Because both averages are below the “fence” of 25 decibels, no impairment is considered to exist in appellant’s ability to hear everyday sounds under everyday listening conditions. The Office, therefore, properly accepted that, while appellant did sustain a measurable loss of hearing in both ears as a result of his federal employment, the extent of that loss was not severe enough to represent any practical, recognized impairment in his hearing. Such a loss -- described as “not ratable” or “nonratable” -- does not entitle appellant to a schedule award for permanent impairment under section 8107 of the Act.

Because the Office properly applied standardized procedures to the results of appellant’s January 31, 2006 audiogram, the Board will affirm the Office’s February 21, 2006 decision.

CONCLUSION

The Board finds that appellant has no ratable hearing loss and is therefore not entitled to a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the February 21, 2006 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: September 27, 2006
Washington, DC

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

David S. Gerson, Judge
Employees’ Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees’ Compensation Appeals Board