

59 years old, filed another claim for a schedule award for hearing loss. He retired on May 31, 2000.

Appellant submitted a treatment note from Dr. R. Stanley Baker, a Board-certified otolaryngologist, dated November 3, 2005, who treated him for hearing loss which he attributed to occupational exposure to noise prior to retiring five years earlier. Dr. Baker noted findings upon physical examination of normal configuration of the external ears and canals, normal color, contour and mobility of each tympanic membrane with no sign of middle ear inflammation or damage. He noted asymmetric progression of the noise-induced hearing loss corresponded to left-handed firearm use and referenced two audiograms performed on May 24, 2000 and November 3, 2005. Dr. Baker recommended that appellant use hearing protection for his recreational activity and advised that he was a possible candidate for amplification. Appellant also submitted a job description.

In a statement of accepted facts, the Office noted that appellant worked as an electrician from February 24, 1982 until his retirement on May 31, 2000. Appellant indicated that he first realized his hearing loss was caused or aggravated by his employment on June 11, 1988. His noise exposure at work comprised of noise from jet engines, B-1 bombers, blow dryer machines, air rackets, sand blasters, grinders, cabin pressure machines, air compressors, rivet guns and drills. Appellant was also exposed to noise during his military service in the reserve unit from April 17, 1966 to September 1972 from turbine compressors, gas generators and hydraulic jeeps.

By letter dated November 15, 2007, the Office referred appellant to Dr. Richard B. Dawson, a Board-certified otolaryngologist, for otologic examination and audiological evaluation. It provided Dr. Dawson with a statement of accepted facts, available exposure information and copies of all medical reports and audiograms.

Dr. Dawson performed an otologic evaluation of appellant on December 18, 2007 and audiometric testing was conducted on the doctor's behalf the same day. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed the following: right ear 10, 5, 25 and 55 decibels; left ear 5, 5, 15 and 25 decibels. Dr. Dawson determined that appellant sustained bilateral high tone sensorineural hearing loss, worse on the right. He indicated that the sensorineural hearing loss was due to noise exposure encountered in appellant's employment above the accepted level which caused temporary and permanent threshold changes. Dr. Dawson advised that there was no other relevant history implicated to cause the existing hearing loss. He noted an increase in hearing loss in the right ear since appellant's retirement in 2000. Dr. Dawson found no evidence of ratable impairment and recommended a hearing aid in the right ear.

On February 5, 2008 Office medical adviser reviewed Dr. Dawson's report and the audiometric test of December 18, 2007 to determine if appellant's hearing loss was ratable for schedule award purposes. The medical adviser concluded that in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,² (A.M.A., *Guides*), (5th ed. 2001) that appellant had zero percent monaural hearing loss in the left and right ear and zero percent bilateral sensorineural hearing loss. The medical adviser determined that

² A.M.A., *Guides* (5th ed. 2001).

appellant's hearing loss was not severe enough to be ratable for a schedule award after applying the Office's current standards for evaluating hearing loss to the results of the December 18, 2007 audiogram. The medical adviser noted that appellant had a zero percent hearing loss in both ears in 2000 when he retired from federal employment. He noted that since then the pure tone audiogram of December 18, 2007 showed an increased hearing loss in both ears, more so in the right ear. The medical adviser opined that the noise-induced hearing loss did not progress when the noise exposure ceased in 2000; therefore, the increase since 2000 was not due to noise exposure of his federal job. He concurred with Dr. Dawson's recommendation for amplification in the right ear and opined that this need was partially due to the hearing loss present on the retirement audiogram.

By decision dated February 14, 2008, the Office determined that the hearing loss was employment related but not severe enough to be considered ratable for purposes of a schedule award.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act³ and its implementing regulation⁴ set 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.⁵

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁶ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁷ 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.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ 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

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

⁵ *Id.* See *B.C.*, 58 ECAB ____ (Docket No. 06-925, issued October 13, 2006).

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

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

arrive at the amount of the binaural hearing loss.¹⁰ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹¹

ANALYSIS

After appellant claimed a schedule award on June 13, 2006, the Office referred him to Dr. Dawson for otologic examination and audiological evaluation. Dr. Dawson determined that appellant's hearing loss was work related and provided an audiogram taken on his behalf.

On February 5, 2008 an Office medical adviser applied the Office's standardized procedures to the December 18, 2007 audiogram performed for Dr. Dawson. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibels losses of 10, 5, 25 and 55 respectively. These decibels were totaled at 95 and were divided by 4 to obtain an average hearing loss at those cycles of 23.75 decibels. The average of 23.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0, which was multiplied by the established factor of 1.5 to compute a 0 percent loss of hearing for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibels losses of 5, 5, 15 and 25 respectively. These decibels were totaled at 50 and were divided by four to obtain the average hearing loss at those cycles of 12.50 decibels. The average of 12.50 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss for the left ear.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Dawson's report and the December 18, 2007 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth above. Appellant questions why his employment-related hearing loss warrants a hearing aid but not a schedule award. As noted, the Office uses a standard formula in determining whether a work related hearing loss is severe enough to be ratable for schedule award purposes. On February 5, 2008 the Office medical adviser applied this standard formula to the December 18, 2007 audiogram and determined that appellant's hearing loss is not ratable for schedule award purposes. Consequently, appellant is not entitled to a schedule award for his hearing loss.

CONCLUSION

The Board finds the Office properly denied appellant's claim for a schedule award for hearing loss.

¹⁰ *Id.*

¹¹ *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 February 14, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 12, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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