



March 12 and April 28, 2008, appellant asserted that he had been exposed to loud noise while working as a ship fitter and sheet metal mechanic from 1971 to 2004.

The Office referred appellant and a statement of accepted facts to Dr. L. Frederick Lasson, a Board-certified otolaryngologist, for an audiologic and otologic evaluation. The audiologist performing the September 18, 2008 audiogram for Dr. Lasson listed findings on audiological evaluation. At the frequencies of 500, 1,000, 2,000 and 3,000 cps, the following thresholds were reported: right ear -25, 20, 30 and 30 decibels: left ear -20, 25, 30 and 25 decibels. Dr. Lassen noted that appellant had a 3.5 percent binaural hearing loss and stated that his workplace noise exposure was of sufficient intensity and duration to have caused the hearing loss. However, he advised that appellant's sensorineural hearing loss was not due to employment factors and concluded that appellant had not sustained any ratable hearing loss attributable to noise exposure at his federal employment.<sup>1</sup>

In a decision dated October 20, 2008, the Office found that appellant had not sustained a ratable hearing loss causally related to factors of his federal employment.

### **LEGAL PRECEDENT**

The schedule award provisions of the Federal Employees' Compensation Act and the implementing federal regulations set forth the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body listed in the schedule. However, neither the Act nor the regulations specify the manner in which the percentage loss of a member, function or organ shall be determined. The method of determining this percentage rests in the sound discretion of the Office. To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001). Using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second (cps), 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 1.5 to arrive at the percentage of monaural 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. The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.

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<sup>1</sup> Dr. Lasson did not recommend hearing aids.

### ANALYSIS

The Board finds that the case is not in posture for a decision on whether appellant sustained a ratable hearing loss while in the performance of duty. Further development of the medical evidence is required.

The Office referred this case to Dr. Lassen, who obtained audiometric testing on appellant, which showed a hearing loss. The September 18, 2008 audiogram indicated a ratable hearing loss, which Dr. Lassen noted was consistent with appellant's history of noise exposure. However, Dr. Lassen determined that appellant's hearing loss was not causally related to factors of his federal employment. His medical report did not address the basis for his stated conclusion on causal relationship. Therefore, the Board will set aside the Office's October 20, 2008 decision and remand the case for further development of the medical evidence. Dr. Lassen offered no medical rationale to explain why appellant's employment was not a contributing factor to the diagnosed bilateral hearing loss. As the Office attempted development of the claim it has no obligation to further develop the evidence.<sup>2</sup> After such further development as may be necessary the Office shall issue an appropriate final decision on appellant's hearing loss.<sup>3</sup>

The October 20, 2008 decision of the Office is set aside and the case remanded for further action consistent with this opinion.

### CONCLUSION

The Board finds that the case is not in posture for decision.

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<sup>2</sup> See *Melvin James*, 55 ECAB 406 (2004); *Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

<sup>3</sup> The record contains several audiograms obtained by the employing establishment, 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. *Joshua A. Holmes*, 42 ECAB 231, 236 (1990).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 20, 2008 decision of the Office of Workers' Compensation Programs be set aside and remanded for further development.

Issued: July 20, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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