

Appellant submitted audiograms dated October 9, 1991, a copy of his application for federal employment, and air sample environmental studies. In a February 21, 2008 statement, he described his duties and exposure to noise during the course of his federal employment commencing February 24, 1974. Appellant stated that he remained exposed to hazardous noise at work. The Office received an August 6, 2002 audiogram from Sue Abel, an audiologist, who noted that the right ear showed normal hearing sloping to a mild high-frequency loss and that the left ear showed normal hearing sloping to a moderate-mixed loss and recommended that appellant see a doctor. A December 6, 2006 audiogram performed on behalf of Dr. Ernest J. Prochazka, Board-certified in preventative and occupational medicine, showed hearing thresholds of 10, 10, 25 and 55 on the left and 10, 10, 10 and 20 on the right.

On May 23, 2008 the Office referred appellant, together with a statement of accepted facts, a set of questions and the medical record, to Dr. Dennis G. Pappas, a Board-certified otolaryngologist, for otologic examination and audiological evaluation.

On June 26, 2008 Dr. Pappas described appellant's history of injury and treatment, and performed an otologic evaluation. Audiometric testing was conducted on June 26, 2008. The audiometric testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 10, 0, 0 and 15 decibels; left ear 10, 5, 5 and 55 decibels. Dr. Pappas determined that, at the beginning of his federal employment, appellant's hearing was normal. He compared appellant's audiometric findings to those at the beginning of his exposure and opined that appellant's sensorineural loss was in excess of what would normally be predicated on the basis of presbycusis. Dr. Pappas opined that appellant's workplace exposure was of sufficient intensity to cause the hearing loss in question. He opined that appellant sustained bilateral noise-induced high frequency sensorineural hearing loss and recommended hearing aids. Dr. Pappas indicated that appellant's sensorineural hearing loss was due to noise exposure encountered in his federal employment. He advised that appellant had no ratable impairment on the right or the left.

On August 5, 2008 an Office medical adviser reviewed the June 26, 2008 report and audiometric tests obtained by Dr. Pappas to find that appellant's hearing loss was ratable for schedule award purposes. Under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001) (A.M.A., *Guides*), appellant had no permanent impairment due to his accepted hearing loss. The Office medical adviser concurred with Dr. Pappas that appellant's hearing loss was not severe enough to be ratable for schedule award purposes.

In a decision dated August 8, 2008, the Office accepted appellant's claim for bilateral sensorineural hearing loss. It found that appellant's hearing loss was not severe enough to be ratable for purposes of a schedule award.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations 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

¹ 5 U.S.C. §§ 8101-8193.

the body. The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* (5th ed. 2001), has been adopted by the Office for evaluating schedule losses and the Board has concurred in such adoption.²

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*. Using the 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, 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. 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. The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.³

ANALYSIS

The Board notes that the Office accepted appellant's claim for bilateral sensorineural hearing loss. However, it found that the extent of hearing loss was not ratable for schedule award purposes.

The Office referred appellant to Dr. Pappas who examined appellant on June 26, 2008 and obtained an audiogram. Dr. Pappas advised that appellant's hearing loss was employment related but was not ratable for schedule award purposes. On August 5, 2008 an Office medical adviser reviewed the medical evidence from Dr. Pappas and applied the Office's standardized procedures to the audiogram. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 10, 5, 5 and 55 respectively. These decibel losses were totaled at 75 decibels and were divided by 4 to obtain the average hearing loss of 18.75 decibels. This average loss was then reduced by 25 decibels (25 decibels being discounted as discussed above) to equal zero which was multiplied by the established factor of 1.5 to compute a zero percent hearing loss in the left ear. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 10, 0, 0 and 15 respectively. These decibel losses total 25 decibels and when divided by 4 result in an average hearing loss of 6.25 decibels. This average loss when reduced by 25 decibels (25 decibels being discounted as discussed above) equals zero which when multiplied by the established factor of 1.5 to equals zero percent hearing loss in the right ear. Therefore, appellant's hearing loss is not ratable for purposes of a schedule award. The Board finds that the Office medical adviser properly applied the relevant standards of the A.M.A., *Guides* to determine that appellant has no ratable hearing loss to either ear.

² *R.D.*, 59 ECAB ___ (Docket No. 07-379, issued October 2, 2007); *Bernard Babcock, Jr.*, 52 ECAB 143 (2000).

³ *E.S.*, 59 ECAB ___ (Docket No. 07-1587, issued December 10, 2007); *Donald Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted* (modifying prior decision), Docket No. 01-1570 (issued August 13, 2002).

On appeal, appellant disagreed with the denial of his claim for a schedule award and contends that the audiometric results from his physicians were not utilized. However, these audiograms are not as recent as the audiogram performed for Dr. Pappas. Moreover, the tests were not certified by a physician as accurate⁴ nor indicate a ratable hearing loss.⁵ The most recent audiogram provided by appellant, the December 6, 2006 test performed for Dr. Prochazka, is also not ratable for schedule award purposes.⁶

The schedule award provision of the Act provides for compensation to employees sustaining permanent impairment from loss of use of specified members of the body.⁷ The medical evidence does not establish that appellant's hearing loss is ratable for schedule award purposes.

CONCLUSION

The Board finds that the weight of the medical evidence does not establish a ratable hearing loss causally related to noise exposure in federal employment.

⁴ 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).

⁵ *See supra* note 3. For a hearing loss to be ratable under the Office's standardized formula, the hearing losses at the frequencies of 500, 1,000, 2,000 and 3,000 cps must total more than 100 decibels since the losses at these frequencies are added and averaged, with the fence of 25 decibels being deducted from the average. If the average is 25 decibels or less, then the total will be zero, or less, once the 25 decibel fence is subtracted.

⁶ *See id.* Testing for the left ear at the relevant frequencies revealed decibel losses of 10, 10, 25 and 55. These decibel losses totaled 100, which when divided by 4 to obtain the average, equates to an average hearing loss of 25 decibels. This average loss is reduced by the fence of 25 decibels to equal zero. Testing for the right ear at the relevant frequencies revealed decibel losses of 10, 10, 10 and 20. These decibel losses totaled 50, which when divided by 4 results in an average, equates to 12.5 decibels. This average loss is reduced by the fence of 25 decibels to equal -12.5. This does not support a ratable hearing loss under the relevant standards of the A.M.A., *Guides*.

⁷ 5 U.S.C. § 8107(c).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 8, 2008 is affirmed.

Issued: July 24, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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