

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WAYNE K. OKAMURA and DEPARTMENT OF THE NAVY,
PEARL HARBOR NAVAL SHIPYARD, Pearl Harbor, Haw.

*Docket No. 96-2119; Submitted on the Record;
Issued June 11, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has more than a nine percent monaural hearing loss in the right ear for which he received a schedule award.

The Board has duly reviewed the evidence contained in the case record and finds that appellant has no more than a nine percent monaural hearing loss in the right ear for which he received a schedule award.

In the instant case, appellant filed a claim on February 6, 1995 for hearing loss causally related to factors of his federal employment. By decision dated May 15, 1996, the Office of Workers' Compensation Programs granted appellant a schedule award for a nine percent monaural loss of hearing in the right ear. The period of the award ran from May 23 to June 24, 1995 for a total of 4.68 weeks of compensation.

Under section 8107 of the Federal Employees' Compensation Act,¹ and section 10.304 of the implementing federal regulations,² schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) have been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.³

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.304.

³ *James J. Hjort*, 45 ECAB 595 (1994).

The Office properly considered the medical evidence submitted in support of appellant's claim, and properly applied the A.M.A., *Guides* to the May 24, 1995 audiogram of Dr. Ronald Yet-Sing Chock, a Board-certified otolaryngologist and Office referral physician. In an accompanying May 31, 1995 report, Dr. Chock found that appellant had sensorineural hearing loss causally related to his exposure to noise in the course of his federal employment.

According to the A.M.A., *Guides*, the losses at the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second (cps) are added up, averaged, and the "fence" of 25 decibels (dB) is deducted.⁴ The remaining amount is multiplied by 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 aforementioned formula for monaural loss. The lesser loss is then multiplied by five and added to the greater loss. This amount is then divided by six to arrive at the total binaural hearing loss.⁵

The Office medical adviser applied the Office's standardized procedures to the May 24, 1995 audiogram. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 20, 20, 25 and 60, respectively. These decibels were totaled at 125 and divided by 4 to obtain the average hearing loss of 31.25 decibels. The average loss was reduced by the 25 dB fence to equal 6.25, which was multiplied by the established factor 1.5 to compute a 9.4 percent monaural loss for the right ear, which when rounded equals a 9 percent monaural hearing loss in the right ear.

Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed losses of 15, 15, 15, and 45 decibels, respectively. These decibels were totaled at 90 and divided by 4 to obtain the average hearing loss of 22.5 decibels. The average loss was reduced by the 25 dB fence to equal 0, which was multiplied by the established factor 1.5 to compute a 0 percent monaural loss for the left ear.

The Board finds that the Office medical adviser properly applied the approved procedures for calculating hearing loss to Dr. Chock's May 24, 1995 audiogram. The Office correctly determined that appellant sustained a nine percent monaural loss of hearing in the right ear

⁴ The A.M.A., *Guides* states that a loss below an average of 25 dB is deducted as it does not result in an impairment in the ability to hear everyday sounds under everyday listening conditions; *see* A.M.A., *Guides* 224.

⁵ *Id.*

causally related to factors of his federal employment. There is no medical evidence indicating that he had any additional hearing loss.⁶

The decision of the Office of Workers' Compensation Programs dated May 15, 1996 is hereby affirmed.

Dated, Washington, D.C.
June 11, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁶ On appeal appellant contends that he is entitled to more than eight weeks of compensation. The Act provides that for a total or 100 percent hearing loss in one ear, an employee shall receive a maximum of 52 weeks of compensation. 5 U.S.C. § 8107(c)(13)(B). Accordingly, the amount payable for a 9 percent monaural hearing loss would be 9 percent of 52 weeks or 4.68 weeks of compensation as awarded to appellant. Under the schedule award provisions he is entitled to no more.