

The record contains an unsigned report of a September 21, 2005 audiogram performed by Alexander Robertson, MA CCC-A. Testing of the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed decibel losses of 5, 5, 15 and 30, respectively and in the left ear decibel losses of 0, 10, 20 and 40, respectively. The audiogram further demonstrated speech discrimination scores of 100 percent in both the left and right ears. In a September 26, 2005 report, Dr. Gerald G. Randolph, a Board-certified otolaryngologist, diagnosed bilateral sensorineural hearing loss. Using the AAOO-AMA formula for determining the percentage of hearing loss, he concluded that appellant had a zero percent loss of hearing in both ears. He further opined that appellant should receive no additional rating for tinnitus, but that he was a candidate for bilateral fitting of digital hearing aids.

By letter dated June 30, 2004, the Office advised appellant that the evidence submitted was insufficient to establish his claim and provided him 30 days to submit additional factual and medical evidence.

Appellant submitted a March 3, 1980 application for employment as a shipfitter; a medical surveillance questionnaire for the period November 21, 1991 through November 18, 2004, indicating potential hazardous noise exposure; an occupational history and certificate of medical examination and report dated February 8, 1980 from Dr. James M. Carter, a treating physician; a summary report of audiograms from February 8, 1980 through November 13, 1984; and unsigned audiogram reports dated December 3, 2001 and November 18, 2004. Appellant submitted a copy of the Office's November 4, 2005 letter, bearing notations reflecting that he had either already provided the information requested or that he would be providing the information.

On November 14, 2005 the employing establishment controverted appellant's claim, contending that his initial exposure to noise occurred five years before he began to work at the employing establishment.

A December 22, 2005 report reflected that appellant had worked for the employing establishment as a shipfitter since 1980, and that the eight-hour time weighted average noise exposure was greater than 84 decibels for at least 30 days per year.

The Office referred appellant, together with a statement of accepted facts, to Dr. Richard Seaman, a Board-certified otolaryngologist, for an evaluation to determine the cause and extent of any hearing loss. Dr. Seaman evaluated appellant on February 28, 2006 and submitted a medical report of the same date providing a diagnosis of high frequency sensorineural hearing loss bilaterally due to noise exposure and bilateral tinnitus. The results of the February 28, 2006 audiogram, performed by Mr. Robertson, accompanied Dr. Seaman's report. Testing of the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 10, 10, 20 and 35, respectively and in the left ear decibel losses of 5, 10, 20 and 40, respectively. The audiogram further demonstrated auditory discrimination scores of 100 percent in both the left and right ears. Dr. Seaman reported that the pattern of appellant's bilateral high frequency hearing loss was fairly typical of noise exposure. He observed that, as revealed by his 1980 audiogram, appellant had a high frequency hearing loss at 4,000 cps and above when he started working at the employing establishment, but that by 2001, he had developed high frequency

hearing loss in the right ear and increased loss in the left. He noted that discrimination was 100 percent bilaterally and that tympanograms were normal. Dr. Seaman opined that appellant's hearing loss was secondary to his federal civilian employment. Referring to the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5th ed. 2001), he concluded that appellant did not have a ratable hearing loss, but that he would benefit from hearing aids. Noting that appellant was only slightly bothered by tinnitus, Dr. Seaman concluded that, in the absence of a ratable hearing loss, the tinnitus was not ratable.

On March 27, 2006 the Office accepted appellant's claim for noise-induced hearing loss, bilateral and tinnitus bilateral.

On April 4, 2006, after reviewing appellant's medical records and February 28, 2006 audiologist report, the Office medical adviser found that appellant reached maximum medical improvement on February 28, 2006 and had no ratable hearing impairment for schedule award purposes. Pursuant to the A.M.A., *Guides* and Office procedure, the medical adviser calculated appellant's hearing loss. Appellant's decibel losses for each ear were totaled at 75, and divided by 4 to obtain the average hearing loss per cycle of 18.75. The average of 18.75 was then reduced by the 25 decibel fence to equal 0 decibels for both ears. The 0 was then multiplied by 1.25, resulting in a 0 percent loss for both ears. The Office medical adviser further concluded that appellant was not entitled to an additional rating for tinnitus.

By decision dated April 7, 2006, the Office found that appellant did not sustain a ratable hearing loss and that he was not entitled to a schedule award under the Federal Employees' Compensation Act.

LEGAL PRECEDENT

The schedule award provision of the Act¹ provides for compensation to employees sustaining permanent loss, or loss of use, of specified members of 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* has been adopted by the Office for evaluating hearing losses.²

ANALYSIS

Dr. Seaman and the Office medical adviser properly applied the Office's standardized procedures to the February 28, 2006 audiogram. Testing for the right ear revealed decibel losses of 10, 10, 20 and 35 respectively. These decibel losses were totaled at 75 and divided by 4 to obtain the average hearing loss per cycle of 18.75. The average of 18.75 was then reduced by

¹ 5 U.S.C. §§ 8101-8193.

² See 20 C.F.R. § 10.404; see also *David W. Ferrall*, 56 ECAB ____ (Docket No. 04-2142, issued February 23, 2005).

the 25 decibel fence to equal 0 decibels for the right ear.³ The 0 was multiplied by 1.5 resulting in a 0 percent loss for the right ear. Testing for the left ear revealed decibel losses of 5, 10, 20 and 40 respectively. These decibel losses were totaled at 75 and divided by 4 to obtain the average hearing loss per cycle of 18.75. The average of 18.75 was then reduced by 25 decibels to equal 0 decibels for the left ear. The 0 was multiplied by 1.5 resulting in a 0 percent loss for the left ear. The Office medical adviser properly found that appellant had a zero percent hearing loss in both ears for schedule award purposes.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Seaman's February 28, 2006 report and accompanying audiogram. The result is a zero percent binaural hearing loss in the right and left ears, which is not ratable. Therefore, appellant's hearing loss is not compensable for schedule award purposes.

Appellant also claimed that he had a constant ringing in both ears. The A.M.A., *Guides* provides for the addition of up to five percent for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform the activities of daily living. In his February 28, 2006 report, Dr. Seaman diagnosed tinnitus due to noise exposure. He found, however, that appellant had essentially normal speech discrimination. Although appellant contends that he suffers daily from tinnitus, it is for the evaluating physician to integrate any subjective complaints with objective data to estimate the degree of permanent impairment due to tinnitus.⁴ In the absence of a ratable hearing loss, a schedule award for tinnitus is not appropriate. Accordingly, the Board finds that appellant is not entitled to an additional award for tinnitus.

CONCLUSION

The Board finds that appellant has failed to establish that he sustained a ratable hearing loss entitling him to a schedule award.

³ The decibel "fence" is subtracted, as it has been shown that the ability to hear everyday sounds under everyday listening conditions is not impaired when the average of the designated hearing levels is 25 decibels or less. *See* A.M.A., *Guides* 250.

⁴ *See id.* at 246. *See Ferrall, supra* note 2.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 7, 2006 is affirmed.

Issued: September 6, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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