U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS W. KNIGHT and DEPARTMENT OF THE NAVY, NAVAL AIR WARFARE CENTER, Point Mugu, Calif.

Docket No. 96-2214; Submitted on the Record;
Issued August 3, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained a hearing loss in the performance of duty.

On November 30, 1995 appellant, then a 55-year-old retired fire inspector, filed a claim for hearing loss. He stated that he had worked around large and small-frame jet aircraft and large propeller aircraft since June 1974, "where sometimes ear protection was impossible." He noted further that he initially became aware that his hearing loss was caused or aggravated by factors of federal employment on December 2, 1982.

The record disclosed that appellant was employed as a firefighter from 1974 to February 1986, at which time he was promoted to a fire inspector. The employing establishment noted that firefighters were required to wear protective ear coverings when responding to emergencies and that, as a fire inspector, appellant was not exposed to hazardous noise. Appellant retired after reaching the mandatory retirement age of 55 on November 30, 1995.

The Office of Workers' Compensation Programs referred appellant to Dr. Arthur S. Peters, a Board-certified otolaryngologist, together with a statement of accepted facts and the case record, for an examination. In an April 10, 1996 report, Dr. Peters stated that on that day he compared appellant's 1983 and 1995 audiogram test results. The doctor noted that the 1983 test results revealed high frequency sensorineural hearing loss in both ears at 4,000 and 6,000 cycles per second.[1] He noted further that the 1995 audiogram revealed a slight increase in the loss of appellant's high frequency sensorineural hearing, "that is, five decibels at 3,000 cycles per second[2] and 10 decibels at 4,000 cycles per second on the right side," and "a slight increase in

[1] Although Dr. Peters stated that the 1983 audiogram revealed hearing loss at 5,000 cycles per second, the Board notes that the correct reference is 4,000 cycles per second.

[2] The Board notes that the 1995 audiogram revealed a five decibel decrease in appellant's hearing loss at 3,000 cycles per second when compared against the 1983 audiogram.

the loss at 4,000 cycles per second on the left side." Dr. Peters stated that the results essentially were confirmed by an April 3, 1996 audiogram, which revealed hearing losses of 0, 0, 5 and 0 decibels in the right ear and 0, 0, 0 and 5 decibels in the left ear at 500, 1,000, 2,000 and 3,000 hertz (Hz), respectively and concluded that appellant's increase in hearing loss was of "minimal clinical significance."

In a June 2, 1996 memorandum, an Office medical consultant reviewed Dr. Peters' report and audiogram results and applied the Office standards for hearing loss to these results. The doctor concluded that appellant had a zero percent monaural loss in the right and left ears, respectively, for a zero percent binaural neurosensory hearing loss. The doctor stated that, although appellant's hearing loss "found in the examination of April 3, 1996 was aggravated by the conditions of the federal employment," his binaural neurosensory hearing loss was zero.

In a June 14, 1996 decision, the Office found that, although appellant had sustained a bilateral hearing loss while in the performance of duty, the hearing loss was considered noncompensable.

The Board finds that appellant sustained a noncompensable hearing loss causally related to factors of his federal employment.

A person who claims benefits under the Federal Employees' Compensation Act[3] has the burden of establishing the essential elements of his claim. Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he seeks compensation is causally related to specified conditions of his employment. As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.[4] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[5]

In this case, appellant alleged that his hearing loss was causally related to noise exposure in the federal government since 1974. The medical evidence of record, however, is not sufficient to establish a compensable hearing loss attributable to appellant's federal employment. Dr. Peters, Board-certified in otolaryngology, based on a review of appellant's employment audiograms and a post-employment April 1996 audiogram, found that his high frequency sensorineural hearing loss was most likely due to noise exposure, but was "of minimal clinical significance." Further, the Office's medical consultant stated that appellant's high frequency sensorineural hearing loss, although "consistent in part with hearing loss of noise exposure," nonetheless resulted in a zero percent binaural hearing loss. The medical consultant applied the Office's standardized procedures to the independent audiogram obtained on April 3, 1996. Testing for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second revealed losses of 0, 0, 5 and 0 decibels, respectively. These losses were totaled at 5 decibels and divided

[3] 5 U.S.C. §§ 8101-8193.

[4] *Steven R. Piper*, 39 ECAB 312, 314 (1987); *Mary J. Briggs*, 37 ECAB 578, 581 (1986).

[5] *Ronald K. White*, 37 ECAB 176, 178 (1985).

by 4 to arrive at an average hearing loss of 1.5 decibels. The average loss was reduced by 25 decibels (the first 25 decibels are discounted) to equal 0 decibel hearing loss, which was multiplied by 1.5 to arrive at a 0 percent hearing loss for the right ear. Similar testing for the left ear revealed losses of 0, 0, 0 and 5 decibels respectively. These losses were totaled at 5 decibels and divided by 4 to arrive at an average hearing loss of 1.25 decibels. The average loss was reduced by 25 decibels to equal 0 decibels, which was multiplied by 1.5 to arrive at a 0 percent hearing loss for the left ear.

The consultant calculated appellant's binaural hearing loss by using the prescribed formula: multiply zero by five and add zero, which yields zero; divide by six, which yields a zero percent binaural hearing loss. The Office followed its standardized procedures and correctly calculated appellant's binaural hearing loss at zero percent. Although appellant has sustained a permanent binaural hearing loss, the extent of that loss is not great enough to impair his ability to hear everyday sounds under everyday conditions.[6] The probative medical evidence, therefore, indicates that although appellant's hearing loss was employment related, it was of such clinical insignificance as to preclude a compensation award. There is no medical evidence of record that supports between a compensable hearing loss injury as a result of appellant's federal employment. As noted above, it is appellant's burden to establish the essential elements of his claim. He has not done so and the Office properly denied his claim.

The decision of the Office of Workers' Compensation Programs, dated June 14, 1996, is hereby affirmed.

Dated, Washington, D.C.
August 3, 1998

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

[6] *Danniel C. Goings*, 37 ECAB 781 (1986).