

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JESSE L. MANGRUM, SR. and TENNESSEE VALLEY AUTHORITY,  
BROWNS FERRY NUCLEAR PLANT, Decatur, AL

*Docket No. 00-679; Submitted on the Record;  
Issued March 15, 2001*

---

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that his hearing loss is causally related to factors of his federal employment.

On August 26, 1998 appellant, then a 45-year-old boilermaker and welder, filed a notice of occupational disease and claim for compensation (Form CA-2) in which he alleged that he had sustained a sensorineural hearing loss due to his exposure to injurious noise levels at the employing establishment.<sup>1</sup>

In a letter dated July 9, 1999, the employing establishment forwarded copies of employment records, audiograms and an audiometric record.

On August 5, 1999 the Office of Workers' Compensation Programs referred appellant, together with a statement of accepted facts and copies of the audiograms of file, to Dr. Sage K. Copeland, a Board-certified otolaryngologist, for a second opinion evaluation as to whether appellant's hearing loss was work related. In a report dated August 19, 1999, Dr. Copeland considered appellant's history of injury and reviewed audiometric tests performed on his behalf which showed that appellant had "normal hearing" on the right with a "very mild" left sensorineural hearing loss. He indicated that appellant's hearing loss was not causally related to appellant's injurious noise exposure since there was "no standard threshold shift either ear."

In a September 8, 1999 report, an Office medical adviser reviewed Dr. Copeland's report, stating that appellant had normal hearing of 25 decibels or less "for all tones both ears" and stated that there was "no measurable hearing loss." He concurred with Dr. Copeland and agreed that appellant did not have a work-related hearing loss and was not entitled to a schedule award.

---

<sup>1</sup> The employing establishment indicated that appellant had not worked for them, since October 25, 1984. Appellant asserted that he first became aware of his condition and its employment relation on August 20, 1998.

By decision dated October 12, 1999, the Office denied appellant's claim stating that the medical evidence was not sufficient to establish that his condition was caused by his employment.

The Board has duly reviewed the case record and finds that appellant has not established that his hearing loss is causally related to factors of his federal employment.<sup>2</sup>

To establish that an injury was sustained in the performance of duty, an appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical opinion evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.<sup>3</sup>

In the present case, appellant has presented insufficient medical evidence to establish his claim. The only medical evidence before the Board is the August 19, 1999 report of Dr. Copeland and the September 8, 1999 report of the Office medical adviser. Dr. Copeland in his August 19, 1999 report, diagnosed normal hearing with very mild nerve loss at mid frequency, however, he indicated that the sensorineural nerve loss was "not due to appellant's federal employment." Dr. Copeland stated that there was no standard threshold shift in either ear and that appellant had normal hearing in the right ear. The Office medical adviser concurred with Dr. Copeland and indicated that there was no measurable hearing loss and agreed that there was "no work-related hearing loss." Appellant did not present any medical evidence to state that there was a causal relationship between his alleged hearing loss and his federal employment. As appellant has not submitted the requisite medical evidence needed to establish his claim, he has failed to meet his burden of proof.

For the above-noted reasons, appellant has not established that his hearing loss is causally related to factors of his federal employment.<sup>4</sup>

---

<sup>2</sup> Appellant requested an oral argument before the Board and this was scheduled for January 11, 2001. However, as appellant did not appear for the scheduled oral argument, the appeal has proceeded to a decision on the record.

<sup>3</sup> See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> In his appeal, appellant indicated he had the results of his own medical examination, however, the Board cannot consider new evidence on appeal. Appellant can submit the new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2) (1999); see 20 C.F.R. § 501.2(c).

The decision of the Office of Workers' Compensation Programs dated October 12, 1999 is affirmed.

Dated, Washington, DC  
March 15, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member