

**United States Department of Labor
Employees' Compensation Appeals Board**

ELLSWORTH B. GLAZIER, Appellant

and

**DEPARTMENT OF THE NAVY, NAVAL
POSTGRADUATE SCHOOL, Monterey, CA,
Employer**

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**Docket No. 04-434
Issued: May 10, 2004**

Appearances:
Ellsworth B. Glazier, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On December 9, 2003 appellant filed a timely appeal from an October 29, 2003 decision of the Office of Workers' Compensation Programs which denied his claim for hearing loss. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established that he sustained a bilateral sensorineural hearing loss, causally related to hazardous noise exposure in his federal employment.

FACTUAL HISTORY

On April 18, 2003 appellant, then a 62-year-old boiler plant operator, filed an occupational disease claim alleging that he sustained a bilateral high frequency loss of hearing, causally related to noise exposure in his federal employment.

An audiogram administered on April 16, 2003 as part of appellant's retirement physical was reported as demonstrating "bilateral moderate high frequency sensorineural hearing loss -- noise induced."¹ The April 16, 2003 audiogram showed the following decibel threshold levels at the frequencies 500, 1,000, 2,000 and 3,000 cycles per second (cps); 20, 20, 15 and 20 on the right respectively, and 30, 20, 20, and 25 on the left, respectively. Appellant was noted as demonstrating a positive significant threshold shift that date, and was referred for an audiological consult. He retired from federal service on June 30, 2003.

On May 19, 2003 the Office requested further information on appellant's history of noise exposure. The employing establishment responded describing appellant's hazardous noise exposure.

The Office created a statement of accepted facts and referred appellant to a Board-certified otolaryngologist, Dr. Richard S. Eng, for a second opinion physical examination and audiological evaluation. In a report dated October 20, 2003, Dr. Eng reviewed the statement of accepted facts and appellant's factual and medical history, described his present symptomatology, and reported his physical examination results. Dr. Eng noted that appellant had no external ear canal obstruction, normal character and anatomy of the tympanic membranes, no fluid accumulations in the middle ear, and no nasal septal defect or obstruction. He indicated that an audiogram was performed by his staff audiologist using a properly standardized and currently calibrated audiometer which demonstrated the following bone conduction hearing threshold levels in decibels at the following frequencies; at 500, 1,000, 2,000 and 3,000 cps, appellant's hearing thresholds were 10, 10, 15 and 20 decibels on the right respectively, and 25, 25, 20 and 20 decibels on the left respectively. Dr. Eng noted that appellant's speech reception threshold for the right ear was 15 decibels with 92 percent discrimination score using a 50-decibel hearing level. The air conduction of the right ear was noted as matching well with the bone conduction of the right ear. He also noted that appellant's speech reception threshold for the left ear was 20 decibels and the discrimination score was 100 percent using a 55-decibel hearing level. Dr. Eng found excellent speech reception thresholds and excellent speech discrimination. He provided the following discussion of appellant's case:

"[Appellant's] moderate but very localized high frequency sensorineural hearing [loss] is more [a] function of his age than of exposure to loud noises in his occupation. His hearing loss is not sufficient to be ratable at this time. As for his complaint of tinnitus, it is possible that it is a result of age-related inner ear nerve degeneration. It is also possible that his daily consumption of aspirin contribute[s] to his persistent ringing noises in the ears."

Dr. Eng concluded that appellant's claim of occupational hearing loss could not be supported by his testing results and history.

¹ Appellant submitted earlier audiograms dating from November 2002 without any accompanying medical narrative diagnosing any condition or addressing causal relation. An employing establishment medical consultation sheet dated April 16, 2003, which accompanied the April 16, 2003 graphic audiogram, merely stated, "Bilateral moderate high frequency sensorineural hearing loss -- noise-induced audiogram accompanies." No findings upon examination were included and no explanation of why it was felt that the hearing loss was noise induced, was provided. Causal relationship was stated as conclusory and was not discussed.

By decision dated October 29, 2003, the Office rejected appellant's claim for a bilateral sensorineural hearing loss causally related to his employment. The Office found that, although appellant was exposed to noise levels in excess of 85 decibels during his employment, he had normal borderline sensorineural hearing across the low and mid frequencies, and localized moderate-high sensorineural hearing loss involving 4,000, 6,000 and 8,000 cps, with excellent speech reception thresholds and excellent speech discrimination. The Office noted that Dr. Eng, who had an accurate factual and medical history, opined that appellant's hearing loss was more a function of his age rather than of exposure to loud noises in his employment. It noted that appellant's complaints of tinnitus were possibly the result of age-related inner ear nerve degeneration, or were possibly the result of his daily consumption of aspirin. The Office concluded that appellant had not met his burden to establish his hearing loss claim, as the weight of the medical evidence of record was the opinion of Dr. Eng, who determined that an occupationally-related hearing loss claim could not be supported by his testing results or his history.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim, including the fact that any disability or specific condition for which compensation is claimed is causally related to his or her employment.²

To establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴

ANALYSIS

In the present case, appellant has not met his burden of proof to establish that he sustained an employment-related bilateral loss of hearing. The record, including appellant's preretirement audiograms initially submitted by appellant, is insufficient to support that he sustained a work-related loss of hearing.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 3. Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

The Board has frequently explained that a conclusory report has little probative value where there is no explanation or rationale supporting the opinion on causal relationship between the diagnosed condition and the employment-related injury.⁵ In this case the reviewing official merely stated that appellant's bilateral moderate-high frequency sensorineural hearing loss was "noise induced." As this statement on the medical consultation form is conclusory and is unsupported by any rationale, it is insufficient to establish appellant's claim.⁶

The second opinion examiner, however, provided a detailed and thorough report based upon an accurate factual and medical history, and the findings upon examination and testing. Dr. Eng diagnosed a normal borderline sensorineural hearing loss across the low and mid frequencies, and concluded that loss of hearing was not employment related but was most likely a function of appellant's age. He further noted that appellant's complaints of tinnitus stemmed from age-related inner ear nerve degeneration, or possibly from side effects of medication consumption. These opinions, therefore, do not support appellant's claim of an employment relationship with the development of his loss of hearing.

The 2002 and 2003 retirement and preretirement audiological evidence was conclusory and therefore of diminished probative value, and as Dr. Eng's report was based upon an accurate factual and medical background, including physical examination and audiometric measurement results, and contained rationale for the conclusions reached, it constitutes the weight of the medical evidence and establishes that appellant's high frequency sensorineural hearing loss was not employment related. Therefore, appellant has not established that he sustained a sensorineural hearing loss, causally related to hazardous noise exposure in his federal employment.

CONCLUSION

As the weight of the medical evidence of record relates appellant's measured hearing loss to his aging and to age-related inner ear nerve degeneration, rather than to loud noise exposure, appellant has not met his burden of proof to establish his occupationally-related hearing loss claim.

⁵ See *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

⁶ *Ruth S. Johnson*, 46 ECAB 237 (1994); *William C. Thomas*, 45 ECAB 591 (1994).

ORDER

IT IS HEREBY ORDERED THAT the October 29, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 10, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member