

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CONNELL C. KAHAN and DEPARTMENT OF THE NAVY,
NORFOLK NAVAL SHIPYARD, Portsmouth, VA

*Docket No. 98-609; Submitted on the Record;
Issued December 2, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has established that his claimed recurrence of disability on February 8, 1996 was causally related to his injury of April 22, 1993, which was accepted for the condition of acute acoustic trauma -- resolved May 17, 1993.

The Board has duly reviewed the case record and finds that appellant has failed to establish that he sustained a recurrence of disability causally related to his April 22, 1993 work injury.

Under the Federal Employees' Compensation Act,¹ an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition³ and supports that conclusion with sound medical reasoning.⁴

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁵ In this regard, medical evidence

¹ 5 U.S.C. §§ 8101-8193.

² *Dennis J. Lasanen*, 43 ECAB 549-50 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁶

In this case, appellant, then a 42-year-old electronics mechanic, injured his left ear after his ear plug had fallen out without his knowledge. The Office of Workers' Compensation Programs accepted the claim for resolved acute acoustic trauma of the left ear as of May 17, 1993. Appellant has been receiving medical care since that time.

On April 30, 1996 appellant filed a recurrence of disability claiming that on or after February 8, 1996 he has been having similar symptoms in his left ear which he related to his original injury. He submitted both medical and factual evidence.

By letter dated June 19, 1996, the Office advised appellant that he would need to submit factual and medical "bridging" information to support his claim and outlined for him what was required. The Office did not receive any additional medical or factual information.

By decision dated July 30, 1996, the Office denied the claim on the grounds that there was no medical evidence of record to establish a causal relationship between the accepted injury and the present condition. Accordingly, the Office found that fact of injury had not been established.

The Board notes that although the medical evidence indicates that appellant was seeking medical attention for left ear problems, none of the medical reports of record address the issue of whether the claimed disability on or about February 8, 1996 was causally related to the April 22, 1993 accepted work-related injury of acute acoustic trauma of the left ear which resolved May 17, 1993.

In a May 17, 1996 medical report, Dr. Barry Strasnick, a Board-certified otolaryngologist, stated that he originally saw appellant on October 6, 1994 for evaluation of complaints of hearing loss in the left ear. At that time, Dr. Strasnick found appellant's head and neck examination to be unremarkable for significant ear pathology. The audiogram obtained at that time revealed significant inconsistency among test results with a positive Stenger test, indicating a possible functional hearing loss. For these reasons, a threshold auditory brainstem evoked response test was obtained. The auditory brainstem threshold test revealed normal wave 5 latency at 30 decibels and possibly 20 decibels in the left ear. A repeat audiogram revealed a speech reception threshold at 15 dB, but elevated pure tone thresholds. Dr. Strasnick wrote that he felt that, at that time, appellant did not demonstrate any significant objective hearing loss in the left ear.

Dr. Strasnick indicated that appellant returned for a follow-up evaluation on February 8, 1996 complaining of intermittent pain in the left preauricular area. A repeated audiogram demonstrated further progression in the left-sided hearing loss. Dr. Strasnick also noted that appellant complained of constant bilateral tinnitus. In light of the inconsistency in his hearing

⁶ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

tests results, a magnetic resonance imaging (MRI) scan of the posterior fossa was obtained to rule out significant intracranial disease. The MRI scan was negative for intracranial pathology.

A repeat ABR test was performed on February 29, 1996 and, once again, auditory thresholds were obtained in the left ear at 30 decibels. Appellant was referred to oral maxillofacial surgery for his complain of left preauricular pain, which Dr. Strasnick felt was due to temporomandibular joint dysfunction.

Dr. Strasnick summarized his report by stating that “auditory testing on two separate dates, including electrophysiologic testing, suggested no evidence of significant hearing pathology on the left side. In addition, an MRI scan of the posterior fossa revealed no intracranial pathology.”

In an earlier medical report of July 13, 1995, Dr. Strasnick stated that it was highly unlikely that the degree of noise exposure appellant sustained at work was harmful on a permanent basis. He stated that he advised appellant of this. In a June 28, 1994 report, Dr. Albert L. Roper, II, a Board-certified otolaryngologist, stated that appellant’s audiogram revealed a minimal low frequency hearing loss with what may be a very small conductive deficit on the left side. He found no evidence of active pathology. In view of the history, Dr. Roper stated that he suspected that appellant has had some damage, but did not think it to be of a permanent nor significant nature.

Although the evidence of record establishes that appellant was suffering from hearing problems in 1994 through 1996, the medical reports fail to relate appellant’s current condition to his work and the injury of April 22, 1993 and clearly stated that there is no evidence of a significant hearing pathology on the left side.

As noted above, part of appellant’s burden of proof is to provide medical opinions which are based on a complete factual and medical background of the claimant,⁷ are of reasonable medical certainty⁸ and are supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹ Inasmuch as the medical reports submitted by appellant do not specifically relate appellant’s condition to the April 22, 1993 work incident, they are insufficient to establish causal relationship between the claimed recurrence and the accepted condition. The Office advised appellant of the type of medical evidence needed to establish his claim, but he did not provide such evidence.

Accordingly, as appellant has not provided the requested medical evidence to establish a relationship between his claimed recurrence and his accepted work injury, appellant has failed to meet his burden of proof in establishing that he sustained a recurrence of disability.

⁷ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁸ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁹ *See James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).

The decision of the Office of Workers' Compensation Programs dated July 30, 1996 is hereby affirmed.

Dated, Washington, D.C.
December 2, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member