

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

CHARLES L. BURCHUM, Appellant

and

**TENNESSE VALLEY AUTHORITY,
Decatur, AL, Employer**

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**Docket No. 04-149
Issued: March 31, 2004**

Appearances:
Charles L. Burchum, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
WILLIE T.C. THOMAS, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On October 17, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated September 30, 2003 finding appellant's hearing loss was not related to his federal employment. 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's hearing loss is causally related to his federal employment.

FACTUAL HISTORY

On January 21, 2003 appellant, then a 59-year-old pipe fitter, filed an occupational disease claim (Form CA-2) alleging that his federal employment, especially working around high noise levels caused by air compressors and jack hammers, led to a loss of hearing. Appellant

noted that he first noticed his hearing loss and suspected it as work related in 1989.¹ In a January 17, 2003 report, Alan Becker, a certified audiologist, stated that testing of appellant's hearing sensitivity in his right ear revealed normal limits at the frequencies of 250, 500, 1,000, 1,500 and 8,000 cycles per second (cps). Between the frequencies of 1,500 cps and 6,000 cps the hearing fell to moderate sensorineural hearing loss and then became a mild loss at 6,000 cps. Results of the tests of the ear revealed a mild loss at 2,000 cps and hearing within normal limits for 500, 1,000 and 8,000 cps. Mr. Becker added that in his professional opinion appellant would benefit greatly with the use of bilateral hearing instruments.

In a June 3, 2003 letter, the employing establishment opposed appellant's claim noting that appellant has been a subcontractor, not a federal employee, since 1990 and there is no evidence to suggest he had a hearing loss during his period of federal employment.

Appellant was referred for a second opinion. In a September 15, 2003 report, Dr. George Godwin, an otolaryngologist, diagnosed bilateral neurosensory hearing loss. Dr. Godwin further opined that appellant's hearing loss is not related to his federal employment noting that his hearing loss is consistent with presbycusis and shows no significant noise-induced component.

In a September 30, 2003 decision, the Office denied appellant's claim finding the medical evidence showed that appellant's hearing loss was due to the aging process, not noise exposure in the course of federal employment.

LEGAL PRECEDENT

The claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or factors of employment. As part of this burden the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background establishing a causal relationship.²

ANALYSIS

In the present case, appellant has not submitted medical evidence that establishes a causal relationship between his federal employment and his hearing loss. The January 17, 2003 report from Mr. Becker, an audiologist, supports that appellant has a hearing loss but does not discuss the relationship between that condition and appellant's federal employment. The September 15, 2003 report from Dr. Godwin, an otolaryngologist, supports that appellant has a hearing loss but

¹ Appellant stated in his CA-2 that he became aware of his hearing loss and its relationship to his federal employment in 1989. The record contains an August 29, 1988 audiogram performed by the employing establishment's medical personnel that shows appellant had a hearing loss. The Board notes that this is sufficient to place the employing establishment on notice of appellant's condition and thus meet the jurisdictional requirements of the Federal Employees' Compensation Act. The Board further notes that the Office ignored the jurisdiction issue when raised by the employing establishment.

² *Brian E. Flescher*, 40 ECAB 532 (1989).

also opines that the hearing loss is not related to his federal employment, but to the aging process.

CONCLUSION

As appellant has not submitted any medical evidence causally relating his hearing loss to his federal employment he has not met his burden of proof to show entitlement to compensation.

ORDER

IT IS HEREBY ORDERED THAT the September 30, 2003 decision by the Office of Workers' Compensation Programs is affirmed.

Issued: March 31, 2004
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member