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JOHN P. GULVAS, Appellant	)	
	)	
and	)	Docket No. 04-263
	)	Issued: March 19, 2004
DEPARTMENT OF THE ARMY, TOBYHANNA	)	
ARMY DEPOT, Tobyhanna, PA, Employer	)	
	)	

Case Submitted on the Record

Before:
COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member

On November 10, 2003 appellant filed an appeal of the August 27, 2003 decision of the Office of Workers' Compensation Programs, which denied his claim for employment-related hearing loss. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue on appeal is whether appellant established that he sustained a hearing loss in the performance of duty.

On March 15, 2003 appellant, a 61-year-old electronics mechanic, filed an occupational disease claim alleging that he sustained a hearing loss in his left ear as a result of his federal employment. Appellant stated that he first became aware of his hearing loss on December 9, 2001 and he first realized it was caused or aggravated by his employment on December 10, 2002. Appellant did not stop work.

Appellant submitted a history of his noise exposure, including his 3 years of service in the army and his 16 years of employment at a chemical processing plant. Appellant also submitted his employee health records dating from May 27, 1981 to October 11, 2002. Additionally, appellant submitted periodic employing establishment audiograms dating back to February 7, 1983.

The Office referred appellant, the record and a statement of accepted facts to Dr. Thomas F. Kozlek, a Board-certified otolaryngologist. In a June 20, 2003 report, Dr. Kozlek noted that appellant worked in the radar section of the employing establishment for 22 years and had other noise exposure, which included 3 years in the military as a construction machine operator and 15 years in the field of chemical processing. He noted that appellant complained of some hearing loss over the years, but denied any tinnitus or vertigo. Physical examination of the ears, nose and throat was “grossly negative.” Dr. Kozlek reviewed a June 19, 2003 audiogram, noting it revealed a “bilateral moderately severe high frequency hearing loss with excellent speech discrimination.” He also reported that the tympanogram was normal. Dr. Kozlek compared the current test results to appellant’s February 7, 1983 reference audiogram and noted the results were “essentially unchanged.” Dr. Kozlek stated that he could not attribute appellant’s hearing loss to his employment at the Tobyhanna Army Depot.

By decision dated August 27, 2003, the Office denied appellant’s claim on the grounds that causal relationship was not established.

LEGAL PRECEDENT

To establish that a condition was sustained in the performance of duty in an occupational disease claim, 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 the employment factors alleged to have caused or contributed to the etiology of the disease or 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.¹ Causal relationship is generally established by rationalized medical evidence explaining how and why factors of the claimant’s federal employment caused or contributed to the claimed condition. Such evidence must be based on a complete and accurate factual and medical history, and be of reasonable medical certainty.²

ANALYSIS

In this case, the Office referred appellant to Dr. Kozlek, a Board-certified otolaryngologist. In a June 20, 2003 report, Dr. Kozlek noted that appellant’s recent audiogram revealed bilateral moderately severe high frequency hearing loss and his tympanogram was normal. He indicated that appellant was exposed to at least 18 years of noise exposure prior to his current federal employment. Dr. Kozlek compared the findings in the reference audiogram

¹ Gary J. Watling, 52 ECAB 278 (2001).

² Ricky S. Storms, 52 ECAB 349 (2001); Lucrecia M. Nielsen, 42 ECAB 583 (1991).

dated February 7, 1983 to those in the June 19, 2003 audiogram and noted that they were essentially unchanged. Based on this comparison, Dr. Kozlek stated he could not attribute appellant's current hearing loss to his federal employment.

Appellant has not provided any evidence indicating that noise exposure during the course of his federal employment caused any of his hearing loss. Thus, in the absence of a rationalized opinion establishing a causal relationship between appellant's diagnosed hearing loss and factors of his employment, the Office properly denied compensation.

CONCLUSION

The Board finds that appellant failed to establish that his hearing loss was causally related to his employment.

ORDER

IT IS HEREBY ORDERED THAT the August 27, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 19, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member