U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board
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In the Matter of LYNN A. BRANDIN, SR. <u>and</u> DEPARTMENT OF THE AIR FORCE,
EGLIN AIR FORCE BASE, FL

Docket No. 02-367; Submitted on the Record;
Issued July 5, 2002
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DECISION and ORDER

Before   DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant filed a timely notice of occupational disease and claim for compensation pursuant to 5 U.S.C. § 8122.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office of Workers' Compensation Programs dated July 31, 2001 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.[1]

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[1] Section 8122(a) of the Federal Employees' Compensation Act states in relevant part: "An original claim for compensation for disability or death must be filed within three years after the injury or death." 5 U.S.C. § 8122(a). However, in a case of latent disability, the time limitation does not begin to run "until the employee is aware, or by the exercise of reasonable diligence, should have been aware, of the causal relationship of the compensable disability to his employment." 5 U.S.C. § 8122(b). If an employee continues to be exposed to injurious working conditions after such awareness, the time limitation begins to run on the last date of this exposure. *Willis E. Bailey*, 49 ECAB 511, 514 (1998). In this instance, appellant ceased working January 3, 1997 and he filed his claim for bilateral hearing loss on September 8, 2000, which was more than three and a half years after his last date of exposure.

The July 31, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
      July 5, 2002

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member