

CLAUDIS H. ANDERSON)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
EQUITABLE SHIPYARD,)	
INCORPORATED)	DATE ISSUED:_____
)	
and)	
)	
AETNA CASUALTY AND)	
SURETY COMPANY)	
)	
Employer/Carrier-)	
Respondents)	DECISION and ORDER

Appeal of the Order of Richard D. Mills, Administrative Law Judge, United States Department of Labor.

Rebecca J. Ainsworth (Maples & Lomax, P.A.), Pascagoula, Mississippi, for claimant.

Before: HALL, Chief Administrative Appeals Judge, BROWN and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Order (96-LHC-279) of Administrative Law Judge Richard D. Mills rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant worked for employer as a shipfitter in new construction of barges in 1968-1969. He underwent an audiometric evaluation in 1976, and Dr. Hammett provided him with a copy of the audiogram and explained the results.¹ Claimant filed a claim for benefits under the Act in 1993.

The administrative law judge denied benefits on two grounds. First, he found that

¹No report is attached to the audiogram. See Emp. Ex. 3.

the Act, as it existed prior to the 1972 Amendments, applies to this case; therefore, claimant's employment is not covered because the work he performed for employer occurred only on land and not over navigable waters. Decision and Order at 2-3; 33 U.S.C. §903(a) (1970) (amended 1972 and 1984); *but see SAIF Corp. v. Johnson*, 908 F.2d 1434, 23 BRBS 113 (CRT) (9th Cir. 1990); *Peterson v. General Dynamics Corp.*, 25 BRBS 71 (1991), *aff'd sub nom. Insurance Co. of N. America v. U.S. Dept. of Labor*, 969 F.2d 1400, 26 BRBS 14 (CRT) (2d Cir. 1992), *cert. denied*, 113 S.Ct. 1253 (1993). The administrative law judge also found that the claim is barred by the statute of limitations because claimant became aware of his hearing loss and its relationship to his employment in 1976 but did not file a claim for compensation until 1993. Decision and Order at 3-4; 33 U.S.C. §913(b)(2); *but see Ranks v. Bath Iron Works Corp.*, 22 BRBS 301 (1989). Additionally, the administrative law judge denied claimant's motion to remand the case for joinder of an earlier, potentially liable, employer; however, he did remand the case to the district director "for appropriate action." Decision and Order at 5. Claimant appeals the administrative law judge's decision.

Claimant challenges neither the administrative law judge's finding concerning employer's liability as the responsible employer nor his finding that the claim is barred by the statute of limitations. These findings are therefore affirmed. Claimant challenges only the administrative law judge's denial of the motion to remand for joinder of another employer. He asserts that in denying the motion, the administrative law judge ignored claimant's potential entitlement to medical benefits, and a claim for medical benefits is never time-barred. Cl. Brief at 2. We hold that the administrative law judge did not abuse his discretion in denying the motion to remand for joinder of another party. If claimant believes another employer is responsible for his injury, then the proper remedy is to file a claim against that employer.

Accordingly, the administrative law judge's Order is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge