BRB No. 96-1319

ARTHONIA PUGH	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
ROBERT E. PATE, FORMER PRESIDENT, PATE STEVEDORE COMPANY OF MOBILE, INCORPORATED, A CORPORATION IN BANKRUPTCY	)	DATE ISSUED:
	)	
Employer-Respondent	)	DECISION and ORDER

Appeal of the Decision and Order of C. Richard Avery, Administrative Law Judge, United States Department of Labor.

Mitchell G. Lattof, Sr. (Lattof & Lattof, P.C.), Mobile, Alabama, for claimant.
Before: HALL, Chief Administrative Appeals Judge, SMITH and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order (94-LHC-2562) of Administrative Law Judge C. Richard Avery denying benefits 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 findings of fact and conclusions of law of the administrative law judge which are rational, supported by substantial evidence, and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

Claimant worked for various stevedoring companies in the 1940's and 1950's, and for various construction companies from the 1950's to 1983. Claimant, however, worked for employer as an operator of a cherry picker and forklift in 1966 for about six hours loading vessels on the docks in Pensacola, Florida.[1] Claimant alleged that while operating the cherry picker and forklift he was exposed to loud noise and suffers a hearing loss as a result of the loud noise. Claimant testified that no ear protection was provided by employer

[1]Pate Stevedore is now in bankruptcy. Consequently, the case proceeded against the former president of the company, Robert E. Pate.

and that the noise levels and the equipment used were similar to those he experienced while working for other stevedore companies in Mobile, Alabama. On April 3, 1993, an audiological examination was performed on claimant which revealed that claimant suffered from a zero percent hearing loss under the American Medical Association *Guides to the Evaluation of Permanent Impairment.* However, the audiologist found that the results were consistent with a hearing loss due to noise exposure and that claimant would benefit from an amplification device. Consequently, claimant filed this claim for medical benefits under the Act on April 8, 1993.

The administrative law judge denied claimant's claim, stating he is unwilling to project a 1993 audiogram on claimant's brief six hour employment with employer in 1966. The administrative law judge found that the employment was too remote in time to the results of the audiogram, and thus that there is no rational connection between the length of employment, a mere six hours, and the development of claimant's present hearing impairment first discovered almost 30 years later. Consequently, the administrative law judge denied the claim for medical benefits, concluding that employer is not responsible for any hearing loss claimant may now experience.

On appeal, claimant challenges the administrative law judge's denial of medical benefits. Employer has not responded to claimant's appeal.

After consideration of claimant's contentions on appeal and the administrative law judge's decision in light of the record evidence, we affirm the administrative law judge's finding that there is no rational connection between the length of claimant's employment with employer, six hours, and any contribution to the development of claimant's present unrateable hearing impairment discovered almost 30 years later. *See generally Port of Portland v. Director, OWCP*, 932 F.2d 836, 24 BRBS 137 (CRT) (9th Cir. 1991). On the facts of this case, we agree with the administrative law judge that the relationship between claimant's exposure to loud noise for six hours while working for employer 30 years ago is too attenuated to hold employer liable for medical benefits for claimant's unrateable hearing loss. Moreover, claimant was not audiologically examined until 30 years after the six hour exposure, and in this 30-year time period following the noise exposure with employer, he worked in the construction industry in what he admitted were noisy conditions. *See* Decision and Order at 3; Cl. Ex. 8. Consequently, we affirm the administrative law judge's denial of medical benefits.

Accordingly, the administrative law judge's Decision and Order denying medical benefits is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge