

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENNIS GANGE and DEPARTMENT OF THE NAVY, NAVAL
UNDERSEA WARFARE ENGINEERING STATION, Keyport, Wash.

*Docket No. 96-1862; Submitted on the Record;
Issued July 20, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that he sustained a loss of hearing causally related to noise exposure in his federal employment.

On July 10, 1995 appellant, then a 67-year-old machinist, filed a claim for hearing loss. He stated he became aware of the hearing loss on June 14, 1995, when he was issued hearing aids for both ears. Appellant retired on August 3, 1995.

The employing establishment submitted a copy of appellant's medical records, including audiograms taken during appellant's employment and a summary of occupational exposure to noise.

The Office of Workers' Compensation Programs referred appellant's record to a district medical adviser and on October 2, 1995 he stated that he reviewed the record and found that "[appellant] has a hearing loss that is more likely than not due to noise exposure at NSPS." The district medical adviser recommended a complete medical and audiological examination.

The Office referred appellant to Dr. William T. Ritchie, a Board-certified otholaryngologist, for an examination and audiometric testing. In a report dated December 19, 1995, Dr. Ritchie discussed appellant's work history. The report indicated that an audiometric evaluation was performed on equipment last calibrated to standards on July 3, 1995. Dr. Ritchie reported that the audiogram revealed:

"[A] bilateral, sensorineural hearing loss, which is greater in the left ear. The type is compatible with a noise-induced hearing loss. [Appellant] describes exposure to high levels of occupational noise, working as a machinist. On a more probable than not basis, a portion of his hearing loss is secondary to occupational noise exposure."

Dr. Ritchie went on to say that “Comparison of the hearing tests, performed while he worked at the [employing establishment] demonstrates that there has been a shift in his hearing level between 1977 and the present time.” Dr. Ritchie further stated that “the amount of shift that actually occurred is no more than would be expected from aging, during this interval. It is probable that the noise-induced portion of his hearing loss preexisted his civil service employment with the employing establishment.” Dr. Ritchie also stated that, “there appears to be a fairly significant shift in his hearing level in just the last eight months, which cannot be due to noise exposure.” Dr. Ritchie stated that “The asymmetry of the hearing loss raises the possibility that a disease process could be present. [Appellant has been advised that he needs to continue to have his hearing monitored to make sure there is not a significant medical problem.” Dr. Ritchie indicated that the testing for the right ear at 500, 1,000, 2,000 and 3,000 cycles per second showed decibel losses of 15, 25, 40 and 65 respectively, while testing for the left ear revealed decibel losses of 45, 65, 80 and 80, respectively.

By letter dated February 21, 1996, the Office requested that Dr. Ritchie clarify his opinion.

By letter dated February 26, 1996, Dr. Ritchie responded:

“On a more probable than not medical basis [appellant] does not have a hearing loss due to his federal civilian employment. A hearing loss existed at the time he began work for the [employing establishment] in 1977. The amount of shift that occurred in his hearing level, during his employment, is no more than would be expected from aging. He has a noise-induced hearing loss, however, which preceded his employment with the [employing establishment]. His noise-induced hearing loss occurred when he was in the military. The change in his hearing level, while employed at the [employing establishment] is due to aging.”

In a May 16, 1996 decision, the Office denied the claim for compensation because the evidence of record did not support a hearing loss causally related to exposure to industrial noise in the course of appellant’s federal and civilian employment.

The Board finds that appellant has not established a causal relationship between his hearing loss and factors of his federal employment.

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was filed within the applicable time limitations of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.² These are the essential

¹ 5 U.S.C. § 8101.

² *Joe Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.⁴ The Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.⁵ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that employment caused or aggravated his condition is sufficient to establish causal relationship.⁶ While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty,⁷ neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.⁸

In summary, in his December 19, 1995 report, after reviewing a statement of accepted facts, noise survey data from appellant's work area, a work history and occupational hearing tests performed at the employing establishment and a veterans administration hospital, Dr. Ritchie concluded that appellant's hearing loss occurred while in the military and was not related to his occupation because his hearing loss existed at the time he began work at the employment establishment in 1977 and the amount of shift that occurred in his hearing levels during his employment there was no more than would be expected to occur from aging. The Board finds that appellant has failed to meet his burden of proof in establishing that his hearing loss is causally related to factors of his employment.

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Williams Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

⁵ *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

⁶ *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

⁷ *See Kenneth J. Deerman*, 34 ECAB 641 (1983).

⁸ *See Margaret A. Donnelly*, 15 ECAB 40 (1963); *Morris Scanlon*, 11 ECAB 384 (1960).

The decision of the Office of Workers' Compensation Programs dated May 16, 1996 is affirmed.

Dated, Washington, D.C.
July 20, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member