

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUAN J. YUSON and DEPARTMENT OF THE NAVY,
PEARL HARBOR NAVAL SHIPYARD, Honolulu, Hawaii

*Docket No. 97-2440; Submitted on the Record;
Issued June 3, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the medical evidence establishes that appellant is entitled to a schedule award for hearing loss.

On March 5, 1996 appellant, then a retired 63-year-old security guard, filed a notice of occupational disease, claiming that his exposure to the noise of military aircraft and ships being overhauled had resulted in a binaural hearing loss.

On April 24, 1996 the Office of Workers' Compensation Programs referred appellant, along with a statement of accepted facts and his medical records, to Dr. Ronald Yet-Sing Chock, a Board-certified otolaryngologist, for evaluation.¹ Based on his May 16, 1996 report, the Office denied appellant's claim on August 15, 1996 on the grounds that the medical evidence failed to establish that appellant's hearing loss was work related.

On March 24, 1997 appellant requested reconsideration on the grounds that on June 16, 1988 he struck his head against a guard shack when he jumped out of the way of an over-wide vehicle that was entering the gates and injured his left ear. On May 8, 1997 the Office denied appellant's request on the grounds that the evidence was insufficient to warrant modification of its prior decision.

The Board finds that appellant has failed to establish that his hearing loss was caused by employment factors and is thus not entitled to a schedule award.

¹ The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fourth edition 1993), using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added up and averaged. Then a "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday sounds under everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural loss.

An employee seeking benefits under the Federal Employees' Compensation Act 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 limitation of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.³

In an occupational disease claim such as a hearing loss, claimant must submit (1) medical evidence establishing the existence of the disease or condition for which compensation is claimed, (2) a factual statement identifying employment factors alleged to have caused or contributed to the disease, and (3) medical evidence establishing that the employment factors were the proximate cause of the disease or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

The medical evidence required is generally rationalized medical opinion evidence which includes a physician's opinion of reasonable medical certainty based on a complete factual and medical background of the claimant and supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵ Neither the fact that appellant's hearing loss became apparent during a period of employment nor appellant's belief that his condition was caused or aggravated by his employment is sufficient to establish a causal relationship.⁶

In this case, appellant has established the existence of a binaural sensorineural hearing loss but has failed to establish through medical evidence that this condition resulted from his employment. Dr. Chock diagnosed high frequency sensory hearing loss in the left ear, worse than the right, prior to 1965, based on audiograms, but stated that the cause was unknown.

He found asymmetric loss in the low frequencies, right worse than the left, but the cause of this was not noise exposure from 1986 to 1995 because long-term noise exposure does not cause low tone hearing loss. Dr. Chock added that the severity of appellant's high frequency loss was greater than what occurs with chronic noise exposure. Thus, the medical evidence fails to establish the requisite causal relationship between appellant's hearing loss and his employment.

Appellant argued on reconsideration that a traumatic work incident in June 1988 contributed to his hearing loss as well. However, appellant submitted no medical evidence either

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁵ *Charles E. Burke*, 47 ECAB 185, 189 (1995).

⁶ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994); *see Jerry D. Osterman*, 46 ECAB 500, 508 (1995).

to support this assertion or to dispute the conclusions of Dr. Chock that negated a work-related hearing loss.⁷

Appellant's belief that his hearing loss was caused by his exposure as a security guard to noise from jet engines, traffic, and overhauling work is insufficient to establish the required causal relation which can be demonstrated only by medical evidence. Although appellant was advised of the requirements involved in establishing his entitlement, he has failed to submit the medical evidence necessary to carry his burden of proof.⁸ Therefore, the Board finds that the Office properly denied the claim.

The May 8, 1997 and August 15, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
June 3, 1999

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁷ Cf. *Stuart M. Cole*, 46 ECAB 1011, 1013 (1995) (remanding the case for the Office to determine the extent and cause of appellant's hearing loss after the Office erred in finding that an audiogram failed to demonstrate a ratable loss).

⁸ See *Joseph T. Gulla*, 36 ECAB 516, 519 (1985) (finding that the weight of the medical evidence established that appellant's hearing loss was not work related).