

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GILBERT S. KOYANAGI and DEPARTMENT OF THE NAVY,  
NAVAL SUBMARINE BASE, Silverdale, WA

*Docket No. 98-800; Submitted on the Record;  
Issued November 16, 1999*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has met his burden to establish that he sustained a hearing loss in the performance of duty.

On February 8, 1994 appellant, a 48-year-old heavy equipment inspector, filed a Form CA-2 claim for occupational disease, alleging that he sustained a hearing loss causally related to factors of his federal employment. Appellant stated that he first became aware that he had sustained a hearing loss on August 5, 1987. Accompanying the claim form was an undated letter from the employing establishment describing his work duties and work locations since beginning work with the employing establishment in 1988 and an undated letter from appellant documenting his employment history since 1965.

In a report dated June 15, 1994, an office medical adviser found that appellant had a significant bilateral high frequency hearing loss prior to beginning his employment with the employing establishment in 1988. The Office of Workers' Compensation Programs' medical adviser stated that although appellant had been exposed to high level noise with the employing establishment in 1994, the noise had not affected his hearing in the high frequencies which were typically associated with excessive noise exposure. He recommended that the Office obtain otologic and audiologic examinations to determine his present hearing status and that the referral physician should be asked to determine whether the small changes in hearing throughout the frequency range could have resulted from noise exposure.

By letter dated July 12, 1994, the Office referred appellant and a statement of accepted facts, to Dr. Stephen A. Habener, a Board-certified otolaryngologist, for an audiologic and otologic evaluation of appellant, which was scheduled for July 27, 1994.

Dr. Habener stated in his July 27, 1994 report that the hearing loss noted in the audiogram taken on that date was clinically significant but was attributable to previous noise exposure, most of which occurred prior to 1987, a year prior to the date appellant commenced

employment with the employing establishment. Although Dr. Habener indicated that at least part of appellant's sensorineural hearing loss was due to his "federal civilian employment," this was apparently based on his understanding that appellant was employed as a federal employee from 1975 through 1987, the period in which he believed appellant's hearing loss had occurred.

In order to clarify the issue of when appellant's exposure to loud noise and, therefore, his hearing loss had occurred, the Office referred appellant for a second opinion audiologic and otologic evaluation with Dr. James A. Donaldson, a Board-certified otolaryngologist, for an audiologic and otologic evaluation, which was scheduled for September 19, 1995.

In his September 19, 1995 report, Dr. Donaldson noted a significant bilateral sensorineural hearing loss, noise induced, but opined that this was probably not due to noise exposure encountered in his federal civilian employment. Dr. Donaldson based this opinion on appellant's history of noise exposure, which indicated that he developed very significant sensorineural hearing loss, most likely when he was in military service from 1965 to 1968, at which time he was firing mortars without ear protection and became aware of temporary threshold shifts and diminished hearing. With regard to noise exposure in his civilian federal employment since November 1987, Dr. Donaldson noted that since 1990 appellant had been an inspector, a position in which he rarely experienced noise exposure. He further noted that the changes in appellant's hearing were so questionable and minimal between his November 1987 and September 19, 1995 audiograms that it was more likely than not that his employment with the employing establishment had not significantly changed his hearing.

On October 24, 1995 an Office medical adviser adopted Dr. Donaldson's opinion that appellant's hearing loss was not due to hazardous noise exposure with the employing establishment.

In a decision dated December 10, 1996, the Office found that appellant had not sustained a hearing loss in the performance of duty.<sup>1</sup>

The Board finds that appellant has not met his burden to establish that he sustained a hearing loss in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing that 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 timely filed within the applicable time limitation period 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 are causally related to the employment injury.<sup>3</sup> These are the

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<sup>1</sup> Although the Office's decision is dated December 10, 1996, the memorandum accompanying the decision is dated December 12, 1996.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> *Joe Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or 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 presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical evidence.

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the appellant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the appellant.<sup>5</sup>

The Office accepts that appellant experienced the employment incident at the time, place and in the manner alleged. However, the question of whether an employment incident caused a personal injury generally can be established only by medical evidence<sup>6</sup> and appellant has not submitted medical evidence to establish that the employment incident caused a personal injury.

The only medical evidence addressing the cause of appellant's hearing loss indicates that appellant's hearing loss was not caused by employment factors. In his July 27, 1994 report, Dr. Habener indicated that appellant's hearing loss was attributable to previous noise exposure, most of which occurred from 1975 to 1987, a year prior to the date appellant commenced employment with the employing establishment. Further, Dr. Donaldson reviewed audiometric testing performed on his behalf, reviewed appellant's medical and audiological records and concluded that appellant's sensorineural hearing loss was probably not due to noise exposure encountered in his federal civilian employment. Dr. Donaldson stated that appellant's history of noise exposure indicated that his hearing loss probably occurred in the period from 1965 to 1968, when he was serving in the military and opined that the changes in appellant's hearing from November 1987 to September 19, 1995, as noted by audiogram, were so questionable and minimal that he believed his employment with the employing establishment had not significantly changed his hearing. Based on Dr. Donaldson's opinion, an Office medical adviser properly

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<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Id.*

<sup>6</sup> *See John J. Carlone*, 41 ECAB 353 (1989).

concluded that appellant's hearing loss was not caused by hazardous noise exposure with the employing establishment.

Consequently, the Board finds that the Office properly determined that the medical evidence establishes that appellant's hearing loss is not due to factors of his federal employment.

The December 10, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
November 16, 1999

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member