

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD E. GOWLER and DEPARTMENT OF THE ARMY,
Fort Lewis, WA

*Docket No. 98-1189; Submitted on the Record;
Issued November 15, 1999*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a hearing loss due to exposure to noise at work.

On June 11, 1997 appellant, then a 52-year-old heating equipment repairer, filed a claim for a high frequency bilateral hearing loss which he related to stripping out grates inside furnaces and boilers, using a jackhammer to remove old refractory and flooring, and working around a truck mounted vacuum cleaner and noisy boilers. In an August 8, 1997 letter, the Office of Workers' Compensation Programs requested that appellant submit additional information, including his employment history, his last exposure to hazardous noise at work, any hobbies involving loud noise, and any previous hearing problem. In another letter of the same date, the Office asked the employing establishment to submit information on the locations where appellant was exposed to hazardous noise and the decibel level and duration of the noise levels to which appellant was exposed.

In a January 8, 1998 decision, the Office denied appellant's claim on the grounds that the additional evidence requested in the August 8, 1997 letter was not received and the evidence currently of record was insufficient to support that he had a hearing loss as a result of his employment.

The Board finds that the case is not in posture for decision.

The record on appeal contains a packet of material on which each page has been stamped in the upper left hand corner as having been received on September 5, 1997. The material includes a cover sheet indicating that it was submitted to the district Office by facsimile (fax) machine on September 5, 1997. The telephone number corresponds to the fax number of the district Office. In the material, appellant's supervisor stated that appellant was exposed to noise in mechanical rooms, boiler rooms, basements and shacks that stored heating equipment, and used equipment such as a power vacuum truck, air compressors, air handlers, water pumps,

jackhammers, shop equipment, and various types of motors and drills. He indicated the hours that appellant was exposed to noise and submitted data on noise levels of equipment that appellant used and noise levels in rooms in which appellant worked. The record also contains copies of a letter prepared by appellant in response to the August 8, 1997 letter of the Office. These copies included a cover sheet which indicated that they were submitted to the district Office by fax machine on September 9, 1997 to the Office claims examiner who wrote the August 8, 1997 letter. The material submitted by appellant's supervisor was sent to the Office on September 5, 1997 and was stamped as received on the same date. This evidence therefore was of record as of the time of the Office's January 8, 1998 decision but was not considered by the Office in its decision that appellant had not established that he had a hearing loss causally related to his exposure to noise at work.¹ The case will therefore be remanded for proper consideration of the evidence submitted by appellant's supervisor.

The decision of the Office of Workers' Compensation Programs, dated January 8, 1998, is hereby set aside and the case remanded for further action in accordance with this decision.

Dated, Washington, D.C.
November 15, 1999

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

¹ *William A. Couch*, 41 ECAB 548 (1990).