

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOHN K. BRINKLEY and DEPARTMENT OF THE NAVY,  
U.S. MARINE CORPS, Camp Lejeune, NC

*Docket No. 98-2594; Submitted on the Record;  
Issued May 4, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
MICHAEL E. GROOM

The issue is whether appellant established that his hearing loss was causally related to his accepted employment exposure.

Appellant filed a claim (Form CA-2) on February 4, 1998 alleging that he sustained a hearing loss as a result of his employment duties as a maintenance mechanic. At the time he filed his claim, appellant was 60 years old and he had been employed as a maintenance mechanic for more than 16 years. Appellant indicated that he first became aware of his condition on May 5, 1995 and that he subsequently realized on October 21, 1997 that his hearing condition was caused or aggravated by his employment. After initial development of the record, the Office of Workers' Compensation Programs referred appellant for examination by Dr. R. Dwight Grady, a Board-certified otolaryngologist.<sup>1</sup> Upon completion of his evaluation on June 4, 1998, Dr. Grady submitted his findings on Office Form CA-1332 (Outline of Otologic Evaluation). He diagnosed left-sided high frequency sensorineural hearing loss and with respect to the cause of the noted hearing loss, Dr. Grady indicated that it was not due to noise exposure encountered in appellant's federal civilian employment. In support of his opinion, he explained that appellant "had minimal progression of his hearing loss by reference audiogram dated 1990."<sup>2</sup>

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<sup>1</sup> The Office provided Dr. Grady with a statement of accepted facts dated May 1, 1998 which noted, *inter alia*, that appellant began working for the employing establishment in September 1981 doing carpentry and maintenance mechanic jobs. The Office further noted that, while working in this capacity, appellant was exposed to noise from saws and airplanes approximately three hours per day, five days per week and also exposed to noise from a hammer drill approximately one hour per week. Additionally, the Office noted that appellant was exposed to noise from a jackhammer approximately one hour per month. The statement of accepted facts also indicated that during an eight-hour day appellant was exposed to decibel levels of 71 to 89.98 dBA.

<sup>2</sup> Earlier in his report, Dr. Grady noted that appellant's reference audiogram dated 1990 "showed mild hearing loss at 6k on the right side and a moderate hearing loss through the left."

In its July 21, 1998 decision denying benefits, the Office explained that, based on Dr. Grady's findings, causal relationship had been negated. The Office noted that he had attributed appellant's hearing loss to the "normal aging process."

The Board finds that appellant failed to establish that his hearing loss was causally related to his accepted employment exposure.

When an employee claims that he sustained an injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.<sup>3</sup> Once an employee establishes that he sustained an injury in the performance of duty, he has the burden of proof to establish that any subsequent medical condition or disability for work for which he claims compensation is causally related to the accepted injury.<sup>4</sup>

As previously noted, the Office denied compensation based on Dr. Grady's June 4, 1998 findings. The Office found that causal relationship had been negated in light of his response to item "C" on Form CA-1332. Under item "C," the evaluator is requested to "Compare, if possible, the present audiometric findings to those at the beginning of exposure." The form then asks the following question: Does this individual show a sensorineural loss that is in excess of what would be normally predicated on the basis of presbycus[i]s?" Dr. Grady responded as follows: "[Appellant] has shown some progression of high frequency sensorineural hearing loss on the left side and at 4k on the right but this is not in excess of what would be predicated on the basis of presbycus[i]s." Although he acknowledged that appellant's workplace exposure was sufficient to cause the noted hearing loss, he specifically concluded that appellant's hearing loss was not due to noise exposure encountered during appellant's federal civilian employment.

While the record also includes a December 18, 1997 report from Dr. Michael V. Riesberg, an employing establishment physician specializing in emergency medicine and otolaryngology, this report is equivocal inasmuch as he noted that, while appellant's hearing loss was "most likely noise-related," he further commented that there was a "small possibility of retrocochlear [etiology]..." In view of the equivocal nature of Dr. Riesberg's opinion regarding the etiology of appellant's hearing loss, his report is of little probative value and, therefore, is insufficient to satisfy appellant's burden.<sup>5</sup> As the record lacks any probative medical evidence specifically attributing appellant's hearing loss to his accepted employment exposure, the Office properly denied compensation.

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<sup>3</sup> See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(a)(15) and (16) ("traumatic injury" and "occupational disease or illness" defined).

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Ern Reynolds*, 45 ECAB 690, 696 (1994).

The July 21, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
May 4, 2000

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member