

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of STEPHEN P. SHARTELL and U.S. POSTAL SERVICE,  
POST OFFICE, Troy, MI

*Docket No. 99-2268; Submitted on the Record;  
Issued April 4, 2001*

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DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof in establishing that he was disabled by the accepted condition of temporary aggravation of tinnitus from March through July 1997.

On March 23, 1997 appellant, then a 37-year-old electronics technician, filed an occupational disease claim alleging that his preexisting tinnitus condition was aggravated by factors of his federal employment. He specifically claimed that he was exposed to loud noise while working at a postal plant, and that he first became aware that this condition was caused or aggravated by his employment on January 20, 1997. Appellant stopped working on February 13, 1997.

In support of his claim, appellant submitted reports dated January 28, February 7, 13 and 25 and March 12, 1997 from Dr. Michael J. LaRouere, a Board-certified otolaryngologist, who diagnosed bilateral tinnitus secondary to a high frequency sensorineural hearing loss and advised that appellant would experience a worsening of his hearing condition if he were continuously exposed to loud noise. Dr. LaRouere recommended that appellant avoid areas at work where machines were operating when he was not servicing these machines.

In his February 13 and 25 reports, Dr. LaRouere stated that appellant was unable to return to work at that time due to the worsening of his tinnitus and recommended that he be reassigned to a work environment where the decibel level was under 70 decibels. In his March 12, 1997 report, he reiterated his earlier findings and conclusions, and stated that appellant was currently totally disabled due to tinnitus and "a stress disorder created by this."

Appellant subsequently submitted a March 18, 1997 report from Dr. Michael D. Seidman, a Board-certified otolaryngologist, who advised that appellant's tinnitus symptoms were worsened secondary to his current working conditions. Dr. Seidman stated that, while appellant had been off from work, his symptoms had returned to baseline within two weeks. He

recommended that appellant continue to work, but only in an environment where the sound level was 70 decibels. Appellant returned to work at a less noisy work environment on July 28, 1997, but stopped working again at some point in August 1997.<sup>1</sup>

To determine whether appellant's preexisting tinnitus was aggravated by factors of his federal employment, appellant was referred for a second opinion examination with Dr. Michael Rontal, a Board-certified otolaryngologist. In a report dated August 6, 1997, Dr. Rontal, after reviewing the results of an audiogram, appellant's medical history and a statement of accepted facts, concluded that appellant had idiopathic tinnitus, but no hearing loss. He stated:

"It is my feeling that [appellant] has tinnitus of unknown etiology. This is a completely subjective symptom. Under the best of circumstances, the severity of his tinnitus will vary in both pitch and in loudness. This has no known or recordable effects from hearing or other testing. Tinnitus may be worsened by noise exposure in some patients and other times it is worse for no known cause."

In a supplemental report dated September 12, 1997, Dr. Rontal indicated that he was unable to make a definitive conclusion regarding whether workplace noise aggravated appellant's preexisting tinnitus, because the underlying etiology for his problem was not discernible. He further advised that tinnitus did not stop a person from being able to perform in a coordinated and purposeful fashion on a motor basis, but that on a psychological basis this type of symptomatology could be distracting. Dr. Rontal concluded that appellant was not totally disabled due to this condition.

By decision dated September 25, 1997, the Office denied appellant's claim, finding that appellant failed to submit sufficient medical evidence establishing that the claimed condition and/or disability was caused or aggravated by factors of his employment.

By letter dated February 26, 1998, appellant requested reconsideration. In support of his request, appellant submitted a February 13, 1998 report from Dr. Seidman, who stated:

"[Appellant's] symptoms have been significantly exacerbated when he began a new shift at the [employing establishment] where he was exposed to continuously running machines. His tinnitus got so severe that he was hardly able to sleep and the stress caused by the worsening tinnitus became almost unbearable. [Appellant] was removed from this environment in February 1997. His symptoms improved while he was off work. [Appellant] returned to work in August 1997. The installation of large air filters over each machine made this shift also intolerable. [Appellant] has not worked since August 1997 and his symptoms have returned to a tolerable level."

Dr. Seidman submitted a supplemental report dated March 17, 1998, which concluded:

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<sup>1</sup> The record does not indicate a precise date when appellant stopped working. The Office has merely noted that appellant discontinued his employment with the employing establishment in August 1997.

“While I agree with many of the comments made by Dr. Rontal, the most common cause of tinnitus is a high frequency hearing loss. Furthermore, the most common cause of a high frequency hearing loss is the normal process of aging, noise, ototoxic medications, tumors and family history. The only positive finding in [appellant’s] history for the last 14 years is his noise exposure at the [employing establishment]. Additionally, this has exacerbated the baseline level of his tinnitus....

“Thus, I would disagree with Dr. Rontal’s comment that [appellant’s] tinnitus is not (at least in part) noise related....

“Given the results of his hearing test and the noise levels that he experiences in his work environment his symptoms, at least in part, are explainable.

“Thus, I would continue to recommend that he avoid sounds in excess of 70 dB as this exacerbates his tinnitus. I continue to stress that if a position cannot be found that fits this criterion then I believe that the combination of [appellant’s] subjective complaint of tinnitus coupled with the exacerbation of his tinnitus at work would continuously disable this patient.”

By decision dated May 13, 1998, the Office found that appellant had sustained a temporary aggravation of his underlying tinnitus condition for two, 2-week periods, in February and August 1997. The Office, therefore, awarded appellant wage-loss compensation for these dates. The Office stated that, when appellant was no longer exposed to loud noise at work, his condition had improved and there was no medical evidence in the record indicating he had suffered any permanent residuals from his workplace exposure.

By letter dated February 6, 1999, appellant requested reconsideration. Accompanying the letter was a CA-7 claim for compensation dated February 6, 1999 for the period between March 6 and July 25, 1997. In support of his request, appellant submitted the results of audiograms he underwent on February 22, 1988 and March 4, 1997, and a January 14, 1999 report from Dr. Seidman. In his report, Dr. Seidman reiterated that appellant had severe tinnitus and stated:

“His audiogram from 1988 showed a slight hearing loss sloping from 4,000 Hz [hertz] with a threshold of 20 dB [decibels] at 8,000 Hz. His 1997 audiogram shows hearing loss sloping from 2,000 Hz with thresholds of 20 dB at 4,000 Hz and 50 dB at 8,000 Hz. The second audiogram illustrates permanent high frequency hearing loss. Classically, noise induces the highest amount of hearing loss at approximately 4,000 Hz. Tinnitus is often associated with high frequency hearing loss.”

In a memorandum dated March 5, 1999, an Office medical adviser found that, although the medical evidence indicated appellant had previously experienced a temporary aggravation of his preexisting tinnitus condition due to loud noise at the workplace, he currently had no ratable hearing impairment causally related to his federal employment, as indicated by Dr. Rontal’s August 6, 1997 audiogram.

In a decision dated May 11, 1999, the Office affirmed its previous decision, finding that appellant failed to submit medical evidence sufficient to warrant modification.

The Board finds that appellant has not established that he was disabled due to the aggravation of his preexisting tinnitus condition for any additional periods of time.

If the employment causes only a temporary aggravation of an underlying condition, with no permanent residuals, compensation is payable only for the period of disability related to the actual aggravation.<sup>2</sup>

In this case, Dr. Seidman stated in his February 13, 1998 report that appellant's tinnitus symptoms had been significantly aggravated in February and August 1997 when he was assigned to work environments where he was exposed to loud noise, but that his condition had immediately improved when he was removed from these environments. Therefore, the Office properly found in its May 13, 1998 decision that appellant was entitled to temporary total disability compensation for these periods only.

Subsequent to this decision, appellant submitted a January 14, 1999 report from Dr. Seidman, who reiterated that he suffered from tinnitus and compared results from the 1988 and 1997 audiograms. His report, however, did not provide a probative, rationalized medical opinion establishing that appellant was disabled other than for the specific periods when he was directly exposed to loud noise at his workplace.<sup>3</sup> Dr. Seidman's opinion does not contain any medical rationale explaining how or why appellant's preexisting tinnitus condition was affected by or related to factors of employment during the period from March 6 to July 25, 1997 or at any time thereafter.<sup>4</sup> Causal relationship must be established by rationalized medical opinion evidence. Appellant has failed to submit such evidence, which would indicate that his tinnitus condition caused any wage loss for any additional period.

Consequently, appellant has not met his burden of proof, as he failed to establish that he sustained any additional employment-related disability.

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<sup>2</sup> *Charles D. Bickel*, 32 ECAB 568 (1981).

<sup>3</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>4</sup> *Id.*

The May 11, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
April 4, 2001

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member