

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM R. McDUFFIE and DEPARTMENT OF THE NAVY,
NAS, Pensacola, FL

*Docket No. 01-275; Submitted on the Record;
Issued September 14, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

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

Appellant, a 39-year-old roofer, filed an occupational claim on June 8, 2000 alleging that he sustained a hearing loss as a result of his employment duties. He identified May 19, 1997 as the date he first became aware of his employment-related hearing loss. Reports from the employing establishment were submitted which denoted a significant threshold shift in appellant's hearing. After initial development of the record, the Office of Workers' Compensation Programs referred appellant for examination by Dr. John Keebler, a Board-certified otolaryngologist. In a report of appellant's July 18, 2000 examination, which the Office received July 31, 2000, Dr. Keebler diagnosed a mild presbycusis and he indicated that appellant's hearing loss was not due to noise exposure encountered during his federal civilian employment. He noted that appellant hunts with a shotgun, but the amount of shooting is unknown. Audiometric test results of the July 18, 2000 examination were provided.

In a decision dated August 2, 2000, the Office denied compensation based on appellant's failure to establish a causal relationship between his hearing loss and his employment-related noise exposure. The Office applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, fourth edition to appellant's July 18, 2000 audiogram and found that appellant's mild presbycusis was not due to noise exposure encountered in appellant's federal civilian employment.

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.¹ 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.²

The schedule award provision of the Act³ and its implementing regulation⁴ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

The Office denied compensation based on Dr. Keebler's report of appellant's July 18, 2000 examination. He provided a diagnosis of mild presbycusis not due to workplace exposure. Dr. Keebler stated that such sensorineural loss at 4K, 6K, 8K were normal losses for presbycusis only. He noted that there were no other audiometric findings to compare with. The utilization of earplugs at work and when shooting guns were recommended.

Accordingly, the Office properly determined that appellant's hearing loss was not causally related to his accepted employment exposure as Dr. Keebler stated that appellant's sensorineural hearing loss was a normal amount for presbycusis and the audiometric testing revealed a zero percent binaural hearing loss.

¹ 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(q) and (e) ("occupational disease or illness" and "traumatic injury" defined).

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

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

The August 2, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
September 14, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member