

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTHONY FLORES and DEPARTMENT OF THE ARMY,
FORT SAM HOUSTON, San Antonio, TX

*Docket No. 01-1458; Submitted on the Record;
Issued February 5, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained a ratable hearing loss in the performance of duty, causally related to factors of his federal employment.

On August 23, 2000 appellant, then a 44-year-old visual information specialist, filed a claim alleging that he sustained a monaural hearing loss, causally related to noise in his occupational environment.

In support of his claim, appellant submitted multiple hearing conservation program forms demonstrating a significant threshold shift from a 1992 baseline audiogram to 1999 testing results in his right ear at all frequencies.¹ On November 30, 1999 appellant demonstrated the following right ear decibel threshold levels at the respective frequencies: 55 decibels at 500 hertz (Hz), 55 decibels at 1,000 Hz, 45 decibels at 2,000 Hz and 35 decibels at 3,000 Hz. On December 13, 1999 his right ear threshold levels tested at 55, 55, 65 and 40 decibels, respectively.

The Office of Workers' Compensation Programs determined that a second opinion referral was warranted and it referred appellant, with his record and questions to be addressed, to Dr. Alan H. Dinesman, a Board-certified otolaryngologist, for an otologic examination and audiologic evaluation.

Dr. Dinesman performed an otologic examination and audiologic evaluation² and by report dated November 20, 2000, he reviewed appellant's noise exposure history and medical history, reported the findings of his physical examination and determined that appellant had a severe conductive hearing loss in the right ear and normal hearing in the left ear. Dr. Dinesman

¹ A significant threshold shift is a permanent change of 10 decibels or more from the baseline audiogram at a specific frequency. *See* DD Form 2216E.

² The indices of trustworthiness were present with the calibration data.

opined that appellant's progressive conductive hearing loss in the right ear with the left ear being normal was highly suggestive of otosclerosis, which is not considered to be a noise-related problem with the ear. He noted that he did not see any association at that time of appellant's hearing loss and his work-related situation. Dr. Dinesman opined that, according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* appellant had a 41.25 percent monaural hearing loss in the right ear and a 0 percent loss in the left ear. He answered the Office's questions indicating that appellant's conductive hearing loss was not related to appellant's employment noise exposure.

Dr. Dinesman's report was reviewed by the Office medical adviser who agreed with the monaural determination and agreed that appellant's right-sided conductive hearing loss was not the type of configuration that would be expected from a job-related hearing loss and that therefore appellant's hearing loss was not job related.

By decision dated April 10, 2001, the Office rejected appellant's claim for compensation for hearing loss finding that causal relationship with factors of his employment was not established. The Office found that the medical evidence of record supported that the right-sided hearing loss was conductive and was not noise induced.

The Board finds that appellant has failed to establish that he sustained a ratable hearing loss in the performance of duty, causally related to factors of his federal employment.

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides* using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added up and averaged and a "fence" of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in a person's ability to hear everyday speech under everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss.³ The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss. The lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss. The Board has concurred in the Office's use of this standard for evaluating hearing losses for schedule award purposes.⁴

Appellant's right-sided hearing loss appears to have been correctly determined in accordance with the A.M.A., *Guides*. However, the medical evidence of record does not support that the monaural conductive loss was due to hazardous noise exposure or to factors of appellant's employment.

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the injury claimed was caused or aggravated by his federal employment. As part of this burden, appellant must submit a rationalized medical opinion, based upon a complete and accurate factual and medical background, showing a causal relationship

³ *Charles H. Potter*, 39 ECAB 645 (1988).

⁴ *Danniel C. Goings*, 37 ECAB 781 (1986).

between the injury claimed and factors of his federal employment.⁵ Causal relationship is a medical issue that can be established only by medical evidence.⁶ The Board notes the fact that a condition manifests itself or worsens during a period of employment does not raise an inference of an employment relationship.⁷

In this case, appellant has not submitted any medical evidence which supports that his monaural conductive hearing loss was occupationally induced. The totality of the medical evidence of record supports that appellant's monaural hearing loss is not related to any employment exposure to hazardous noise. Therefore, appellant has not established the work relatedness of his hearing loss and is not consequently entitled to any compensation benefits under the Federal Employees' Compensation Act.

The decision of the Office of Workers' Compensation Programs dated April 10, 2001 is hereby affirmed.

Dated, Washington, DC
February 5, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁵ *Steven R. Piper*, 39 ECAB 312 (1987); *See* 20 C.F.R. § 10.110(a).

⁶ *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

⁷ *Paul D. Weiss*, 36 ECAB 720 (1985); *Hugh C. Dalton*, 36 ECAB 462 (1985).