

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of JAMES E. HAMBY and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Burlington, NC

*Docket No. 01-860; Submitted on the Record;  
Issued January 7, 2002*

---

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury while in the performance of duty.

On October 17, 2000 appellant, then 54 years old, filed a traumatic injury claim alleging that the ringing in his right ear resulted from the noise of a coworker slamming a heavy door closed.

In support of his claim, appellant submitted a treatment note dated October 18, 2000 by Dr. Jeffrey A. Smith, a Board-certified internist, who found that appellant had bilateral serous otitis and mild to moderate noise-induced hearing loss. He noted that appellant "must keep noise exposure below 85 [decibels]." In a November 15, 2000 medical report, Dr. Smith opined:

“[Appellant] received an ‘[i]mpact’ [n]oise [i]njury on [October] 17[,] [20]00, which resulted from a courier slamming a box down close to his right ear. Physical exam[ination] showed the [t]ympanic [m]embrane to be intact but the audiometry revealed bilateral mild to moderate [n]oise-[i]nduced [h]earing [l]oss (NIHL). The impact noise injury will not result in any permanent impairment, however, there appears to be some hearing loss from chronic noise exposure.

By letter dated November 6, 2000, the Office of Workers' Compensation Programs requested further information from appellant. In a letter dated November 16, 2000, appellant indicated that he was less than one and a half feet from the door when it was shut. He added that he never had any problems with his hearing prior to this incident, but that since the incident on October 17, 2000, he had ringing in his ears.

By decision dated December 14, 2000, the Office denied appellant's claim. The Office noted that "the medical evidence states a physical examination showed the tympanic membrane to be intact but the audiometry revealed bilateral mild to moderate-induced hearing loss from chronic noise exposure." The Office stated that the medical report gave no other diagnosis due to the one-time incident of being close to a slamming door.

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an injury in the performance of duty on October 17, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup> In this case, appellant submitted a statement on his claim form alleging that he was hurt when a custodian slammed a door closed. Later, appellant noted that he was less than one and one-half feet from the container when it closed. The record also indicates that he sought medical treatment for this condition the following day. As appellant's statements regarding the incident of October 17, 2000 are uncontroverted, the Board accepts that this incident occurred as alleged.

The second component is whether the employment incident caused a personal injury and generally can only be established by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such causal relationship.<sup>5</sup> Rationalized medical opinion evidence is medical evidence which includes a physical relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>6</sup>

In this case, Dr. Smith stated that the impact noise did not result in any permanent impairment. He did note some hearing loss from chronic noise exposure, but appellant did not

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> See *Elaine Pendleton*, *supra* note 2.

<sup>5</sup> See *John M. Tornello*, 35 ECAB 234 (1983).

<sup>6</sup> *Duane B. Harris*, 49 ECAB 170, 173 (1997).

make a claim for hearing loss due to occupational disease. Rather, appellant alleged injury due to the slamming of a door when he was one and one-half feet away. Accordingly, Dr. Smith's report is insufficient to link appellant's injury to the employment incident.

As appellant has failed to submit the necessary medical evidence to establish that the employment incident of October 17, 2000 resulted in an injury, he has failed to meet his burden of proof. The Office properly denied his claim.

The December 14, 2000 decision of the Office of Workers' Compensation Programs is affirmed.<sup>7</sup>

Dated, Washington, DC  
January 7, 2002

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

---

<sup>7</sup> The Board is limited to review of evidence that was before the Office at the time of the final decision. 20 C.F.R. § 501.2(c). Any evidence submitted after this date cannot be reviewed on this appeal.