

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEWART LEITH and DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION, Dutch John, UT

*Docket No. 03-130; Submitted on the Record;
Issued April 1, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established a ratable hearing loss causally related to noise exposure during his federal employment.

On January 17, 2002 appellant, then a 61-year-old maintenance worker, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that his hearing loss was causally related to his federal employment. Appellant indicated that he had worked at the employing establishment since September 1987.

The Office of Workers' Compensation Programs referred appellant, along with relevant medical records and a statement of accepted facts, to Dr. Ronald F. Gordon, an otolaryngologist.

In a decision dated August 21, 2002, the Office denied the claim on the grounds that appellant's hearing loss was not causally related to his federal employment.

The Board finds that the case is not in posture for decision.

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.¹ 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.² Then, the "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.³ The remaining amount is multiplied by a factor of

¹ A.M.A., *Guides* at 250 (5th ed. 2001).

² *Id.*

³ *Id.*

1.5 to arrive at the percentage of monaural hearing loss.⁴ 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.⁵ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁶

In this case, the second opinion referral physician, Dr. Gordon, diagnosed noise-induced sensorineural hearing loss in a report dated July 22, 2002. Dr. Gordon completed a Form CA-1332 (outline for otologic evaluation) and checked a box that the hearing loss was "not due" to noise exposure in federal employment. A report dated August 20, 2002 from an Office medical adviser notes that Dr. Gordon had indicated that the hearing loss was not due to federal employment, without discussing other aspects of Dr. Gordon's report.

The Board notes, however, that on the Form CA-1332 Dr. Gordon was asked, "Was the workplace exposure, as described in the material provided, sufficient as to intensity and duration to have caused the loss in question?" Dr. Gordon responded "yes." The Office did not request clarification of the contradictory responses provided by Dr. Gordon on the issue of causal relationship with employment. The diagnosis was noise-induced hearing loss; Dr. Gordon did not discuss sources of noise exposure other than employment or otherwise explain his checkmark that the hearing loss was "not due" to federal employment noise exposure. As the Office sought the opinion of Dr. Gordon, it has the responsibility to obtain a report which resolves the issues presented in the case.⁷

The case will be remanded to the Office for a supplementary report from Dr. Gordon on the issue of causal relationship with employment. After such further development as the Office deems necessary, it should issue an appropriate decision.

⁴ *Id.*

⁵ *Id.*

⁶ *Donald E. Stockstad*, 53 ECAB ____ (Docket No. 01-1570, issued January 23, 2002); *petition for recon. granted*, (modifying prior decision), Docket No. 01-1570 (issued August 13, 2002).

⁷ *See Mae Z. Hackett*, 34 ECAB 1421 (1983); *Richard W. Kinder*, 32 ECAB 863 (1981).

The decision of the Office of Workers' Compensation Programs dated August 21, 2002 is set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
April 1, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member