

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CEDRIC R. NASH and DEPARTMENT OF THE AIR FORCE,  
KELLY AIR FORCE BASE, TX

*Docket No. 02-1556; Submitted on the Record;  
Issued August 20, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has established that he sustained a hearing loss causally related to factors of his federal employment.

On July 10, 2000 appellant, then a 47-year-old supply technician/material examiner, filed an occupational disease claim alleging that working in a noisy environment caused his hearing loss. Appellant submitted a narrative statement indicating that he had difficulty hearing and employment records in support of his claim.

By letter dated July 28, 2000, the Office of Workers' Compensation Programs requested that the employing establishment submit factual evidence regarding appellant's claim.

After reviewing the evidence of record, the Office advised appellant, in a letter dated October 17, 2000, that a second opinion examination was necessary. By letter dated October 20, 2000, the Office referred appellant along with a statement of accepted facts, a list of specific questions and the case record to Dr. Alan Dinesman, a Board-certified otolaryngologist, for a second opinion examination.

Dr. Dinesman submitted a December 20, 2000 report finding that appellant's audiological test results were inconsistent and thus, it was difficult to determine appellant's true hearing loss. He concluded that, since appellant had no subjective complaints, it would appear that his hearing was normal and that there was no causal relationship between his noise exposure and perceived hearing loss.

On January 8, 2001 an Office medical adviser reviewed appellant's case record including, Dr. Dinesman's report and stated that he could not determine appellant's entitlement to a schedule award for hearing loss because of an unreliable pure tone audiometry.

By letter dated February 2, 2001, the Office advised appellant that a second opinion examination was necessary and again referred him to Dr. Dinesman.

In a March 6, 2001 report, Dr. Dinesman opined that appellant had normal hearing in his left ear and mild loss of hearing in his right ear. He further opined that appellant's sensorineural hearing loss was not due to noise exposure in his federal employment.

On March 22, 2001 an Office medical adviser reviewed the evidence of record including, Dr. Dinesman's reports. The Office medical adviser agreed with Dr. Dinesman's opinion that appellant had little hearing loss and that any hearing loss was not related to noise exposure on the job.

By decision dated July 31, 2001, the Office found the evidence of record insufficient to establish that appellant's hearing loss was caused by factors of his federal employment.

The Board finds that appellant has failed to establish that he sustained a hearing loss causally related to factors of his federal 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 between the injury claimed and factors of his federal employment.<sup>1</sup> Causal relationship is a medical issue that can be established only by medical evidence.<sup>2</sup> The Board notes that the fact that a condition manifests itself or worsens during a period of employment does not raise an inference of an employment relationship.<sup>3</sup>

Although Dr. Dinesman opined that, based on inconsistent test results and his overall assessment of the Auditory Brainstem Response (ABR) testing and his examination, any hearing loss appellant had was not related to noise exposure at the employing establishment. Dr. Dinesman stated that mild high frequency hearing loss was not uncommon for a 47-year-old man.

On March 22, 2001 an Office medical adviser properly applied the Office's standardized procedures to the March 6, 2001 audiogram performed by Dr. Dinesman and determined that appellant had a 27 percent binaural hearing loss.<sup>4</sup> The Office medical adviser concurred with Dr. Dinesman's opinion that any hearing loss was not work related. The Office medical adviser noted Dr. Dinesman's finding that there were inconsistencies in appellant's test results and his

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<sup>1</sup> *Steven R. Piper*, 39 ECAB 312 (1987).

<sup>2</sup> *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

<sup>3</sup> *Paul D. Weiss*, 36 ECAB 720 (1985); *Hugh C. Dalton*, 36 ECAB 462 (1985).

<sup>4</sup> The Board notes that the Office medical adviser used the same procedures as Dr. Dinesman in finding that appellant had a 27 percent binaural hearing loss.

assessment of the “ABS” and his examination.<sup>5</sup> Accordingly, the Board finds that the probative evidence of record consists of opinions from Dr. Dinesman and an Office medical adviser, both of whom found that appellant’s hearing loss was not causally related to noise exposure in federal employment.

The July 31, 2001 decision of the Office of Workers’ Compensation Programs is affirmed.

Dated, Washington, DC  
August 14, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

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<sup>5</sup> The Board notes that it appears the Office medical adviser inadvertently referred to Dr. Dinesman’s assessment of the ABR as an assessment of the “ABS.”