

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN C. SCHIFFNER and DEPARTMENT OF THE NAVY,
PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

*Docket No. 03-929; Submitted on the Record;
Issued August 26, 2003*

DECISION and ORDER

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

The issue is whether appellant established that he sustained a work-related hearing loss.

On November 10, 2000 appellant, then a 60-year-old retired supervisory physical science supervisor, filed an occupational disease claim for employment-related hearing loss. Appellant stated that he first became aware of his condition in 1988, and first realized that it was caused by his employment on October 10, 2000 when he spoke with his attorney. Appellant did not provide any medical evidence with his CA-2.¹

On July 20, 2001 the Office of Workers' Compensation Programs referred appellant, a copy of his position description, a 1987 audiogram and a statement of accepted facts to Dr. James Rockwell, a Board-certified otolaryngologist, for an evaluation. In a statement of accepted facts, the Office stated that appellant was exposed to occupational noise levels above 85 decibels from 1966 to 1997. Dr. Rockwell, in a report dated July 25, 2001, stated that appellant had no hearing loss. After further development of the record, the Office issued an August 6, 2001 decision denying appellant's claim. The Office found that, although appellant experienced the noise exposure, a condition had not been diagnosed in connection with his employment noise exposure. Accordingly, the Office held that appellant failed to establish that he sustained an injury as alleged. Appellant, through counsel, then requested an oral hearing. A hearing was held on March 29, 2002. In a decision dated June 24, 2002, the hearing representative affirmed the Office's August 6, 2001 decision denying appellant's claim for hearing loss.

The Board finds that appellant failed to establish that he sustained a hearing loss causally related to his federal employment.

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing

¹ Appellant retired on June 3, 1997.

the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.²

In the instant case, the record is devoid of any rationalized medical opinion evidence establishing that appellant had sustained hearing loss and thus he has not established the first component of his burden of proof that the claimed condition exists.

The Office referred appellant for examination by Dr. Rockwell, a Board-certified otolaryngologist. In a report dated July 25, 2001, Dr. Rockwell noted review of appellant's 1985 and 1997 audiograms and found that they "essentially were within normal limits." He then noted that the July 19, 2002 audiogram was normal with no evidence of hearing loss. Appellant has failed to submit rationalized medical opinion establishing a hearing loss and the Office properly denied appellant's claim for compensation.

The June 24, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
August 26, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

² *Victor J. Woodhams*, 41 ECAB 345 (1989).