

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALVARO D. MIRAMONTES and DEPARTMENT OF THE NAVY,
COMNAVAIRPAC, San Diego, CA

*Docket No. 03-746; Submitted on the Record;
Issued June 5, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On November 21, 2000 appellant, then a 50-year-old logistics management specialist, filed a notice of occupational disease and claim for compensation, alleging that he sustained a hearing loss due to his work environment. Noise exposure information was submitted by the employing establishment. The Office of Workers' Compensation Programs accepted that appellant was exposed to hazardous noise levels in the performance of duty in federal employment with the employing establishment as follows: aircraft engine mechanic, November 1979 to 1983; aircraft engine examiner, January 1983 to September 1989; aircraft engine planner and estimator, October 1989 to February 1991; and logistics management specialist/aircraft desk manager, 1989 to present.

By letter dated September 18, 2002, appellant was referred to Dr. Theodore Mazer, a Board-certified otolaryngologist, for a second opinion. In a report dated October 15, 2002, Dr. Mazer noted that results of audiometric testing revealed mixed loss with mild conductive hearing loss, with speech reception threshold reports agreeing more with nerve levels than the conductive levels obtained. He indicated that speech reception was 15 decibels for the right ear and 10 decibels for the left with excellent speech discrimination. He further noted:

“There is some evidence of noise notching but utilizing the nerve hearing responses (as conductive loss would not be work related); there is no ratable loss on the right and a barely ratable level of 1 percent impairment on the left. Given the speech reception threshold results, there does not appear to be any reasonable evidence for functional impairment at this time that would have resulted from noise exposure. This is not the first test that raises the issue of possible minor conductive component, which is not within the workers' compensation arena. This is noted by the audiologist's comment as well.

“There is essentially no ratable impairment of hearing at this time and the claimant has minimal noise exposure in his current setting, as he has since 1989.”

Dr. Mazer indicated that amplification was not warranted presently.

In a report dated November 15, 2002, Dr. Brian Schindler, a Board-certified otolaryngologist and the district medical consultant, reviewed appellant’s file and noted that it was Dr. Mazer’s opinion, with which he concurred, that appellant’s hearing loss was most likely not causally related to noise exposure. Dr. Schindler opined: “Noise exposure does not cause the conductive type of hearing loss that this claimant manifests.”

By decision dated November 21, 2002, appellant’s claim was denied as the medical evidence of record did not establish that appellant’s bilateral conductive hearing loss was causally related to factors of his federal employment.

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.

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. 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. 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.¹ Causal relationship is a medical issue that can be established only by medical evidence.² 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.³

In this case, appellant has not submitted any medical evidence that supports an occupationally-induced hearing loss. Dr. Mazer indicated that there was essentially no ratable impairment and that the mild conductive hearing loss component was not work related. Dr. Schindler agreed, noting that noise exposure does not cause the conductive type of hearing loss that appellant manifests. 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.

¹ *Steven R. Piper*, 39 ECAB 312 (1987); *see* 20 C.F.R. § 10.110(a).

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

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

The decision of the Office of Workers' Compensation Programs dated November 21, 2002 is hereby affirmed.

Dated, Washington, DC
June 5, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member