

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GERALD BREWER and TENNESSE VALLEY AUTHORITY,  
Chattanooga, TN

*Docket No. 02-558; Submitted on the Record;  
Issued May 14, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant's hearing loss is causally related to noise exposure during his federal employment.

On December 12, 2000 appellant filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that his federal employment as a steamfitter caused a hearing loss. Appellant stated that he worked around a lot of noise with no ear/hearing protection while using grinders, air movers/motors, sledgehammers, air chippers and burr grinders. Appellant wrote that he worked 8 to 12 hours a day, 5 to 7 days a week around constant loud noise. He indicated that he first realized his hearing loss was caused or aggravated by his employment in 1981.

Appellant's employment records indicate that he was employed by the employing establishment intermittently for a total of nine and a half years starting on August 21, 1974 and ending on October 2, 1990. Subsequent to his employment with the employing establishment, appellant worked as a steamfitter with various private sector companies and had a total of 17 years of nonfederal employment noise exposure as a steamfitter.

In a May 21, 2001 letter, the Office of Workers' Compensation Programs referred appellant, along with a statement of accepted facts, to Dr. George Brown, a Board-certified otolaryngologist, who referred appellant to George Murphree for audiological testing. In a July 3, 2001 report, Mr. Murphree wrote that appellant's hearing was within normal limits up to 2,000 cycles per second where precipitous mild to severe sensorineural hearing loss occurred. He further noted that the results of appellant's Auditory Brainstem Response (ABR) test were indicative of normal brainstem function and that his hearing is actually 10 decibels better than his most recent audiometric testing. In a July 19, 2001 report, Mr. Murphree indicated that the reliability of appellant's bone conduction test was extremely poor and indicated that the tests were not valid or representative of appellant's hearing sensitivity. In a report received by the Office on July 19, 2001, Dr. Godwin diagnosed appellant with bilateral sensorineural hearing loss, but indicated that the loss was not due to appellant's federal employment. Dr. Godwin

opined that the intensity and duration of appellant's federal employment was not significant enough to cause the loss in question. He concluded that appellant's loss was due to private noise exposure.

In a July 26, 2001 decision, the Office denied appellant's claim finding that the medical evidence did not establish a causal relationship between appellant's hearing loss and his federal employment.

In an August 11, 2001 letter, appellant requested reconsideration and submitted his employment history and a form report of the results of a March 8, 2001 hearing test. However, there was no accompanying narrative report from a physician that discussed a causal relationship between appellant's hearing loss and his federal employment.

In a November 8, 2001 decision, the Office denied modification on the grounds that appellant had not established his hearing loss was causally related to his federal employment.

The Board finds that appellant has not met his burden of proof to establish that he sustained a hearing loss in the performance of his federal duties.

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>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing 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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal 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

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>4</sup>

In the present case, appellant has not submitted sufficient medical evidence to establish that his hearing loss was caused by his federal employment. The only medical evidence of record that discusses causal relationship is Dr. Godwin's July 3, 2001 report. In that report Dr. Godwin stated that the intensity and duration of appellant's federal employment noise exposure were insufficient to cause his hearing loss. He opined that appellant's hearing loss was due to private sector noise exposure. The Board notes that the audiologist testing for Dr. Godwin found that appellant's ABR results indicated that his hearing was actually 10 decibels better than reported on his most recent audiogram. Absent medical evidence establishing a causal relationship between his hearing loss and his federal employment, appellant has not met his burden of proof to establish entitlement to a schedule award.

The decisions by the Office of Workers' Compensation Programs dated November 8 and July 26, 2001 are hereby affirmed.

Dated, Washington, DC  
May 14, 2003

Alec J. Koromilas  
Chairman

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).