

hearing loss and that on January 29, 1999 she first realized her condition was aggravated by her employment.

The employing establishment controverted the claim on March 8, 1999 on the basis that appellant had a preexisting hearing loss and had returned to a modified position on April 23, 1998.

In a March 3, 1999 magnetic resonance imaging (MRI) scan test, Dr. R. Darr McKeown, a Board-certified diagnostic radiologist, reported a history of headaches, decreased hearing and ringing in the left ear. Based upon a review of the MRI scan of the brain, he diagnosed moderately severe sinusitis and clear mastoid sinuses.

In a March 4, 1999 report, Dr. Jeffrey A. Kunkes, an attending Board-certified otolaryngologist, reported “[u]nexplained idiopathic hearing loss.” He reported a normal examination, but a continued hearing loss on the left side. Dr. Kunkes stated that he was recommending changing her work environment “because evidently where she works is 90 decibels or greater.”

On March 23, 1999 the Office received a copy of an August 30, 1996 report regarding noise levels at the Atlanta Bulk Mail Center. The report indicated noise levels of 85 decibels to 90 decibels in primary and secondary sorting machine, sack shakeout areas and vicinity of the drive motors. Appellant reported working in the loose in mail section which is described as 1.3 on Table 1 of the report with sound levels of 90 decibels.

In a May 12, 1999 report, Dr. Keith A. Kowal, a second opinion Board-certified otolaryngologist, diagnosed neural sensory hearing loss and tinnitus which was worse on the left.

The employing establishment submitted a report dated July 7, 1999 regarding a noise monitoring evaluation which was conducted on June 25, 1999 for the loose in mail section where appellant worked. The average sound decibel level was found to be 80.5. The noise level in the loose in mail section was reported as 85 decibels.

In a July 21, 1999 attending physician’s report (Form CA-20), Dr. Kunkes diagnosed mixed hearing loss and tinnitus which he attributed to appellant’s employment. In support of his conclusion that the condition was employment related, he noted the noise in the work environment was 90 decibels or more.

Dr. Kunkes, in an August 31, 1999 letter, stated “I have decided that 55 decibels is the maximum noise range.”

In an October 19, 1999 report, Dr. Kowal indicated, based upon the July 7, 1999 noise monitoring report, that appellant’s hearing loss was not caused by her federal employment.

In a November 4, 1999 report, Dr. Kunkes attributed appellant’s tinnitus as a side effect of her hearing loss and opined that “[a] very noisy environment will intensify her tinnitus.”

A December 3, 1999 report by Dr. William H. Wilson, a Board-certified internist, diagnosed fibromyalgia which the physician attributed to stress due to the loud noise levels.

In a decision dated October 26, 1999, the Office denied appellant's claim on the basis that the evidence was insufficient to establish that her hearing loss was causally related to her employment.

Appellant requested reconsideration in a December 14, 1999 letter.

By nonmerit decision dated January 26, 2000, the Office denied appellant's request for reconsideration of the denial of her claim.

Appellant requested reconsideration in a February 23, 2000 letter and submitted a February 3, 2000 report by Dr. Kunkes in support of her request. In a February 3, 2000 attending physician's report, Dr. Kunkes diagnosed an unspecified mixed hearing loss and tinnitus which opined was due to the noise in her work environment.

Appellant requested an oral hearing by fax transmittal dated February 28, 2000 and submitted an undated report from Dr. Wilson. In this letter, Dr. Wilson reported fibromyalgia is triggered by emotional or physical stress or trauma. He stated that appellant developed fibromyalgia after being struck by a moving container. Dr. Wilson also attributed her fibromyalgia to the noisy workplace environment. In support of this conclusion, he stated that he had reviewed Dr. Kunkes' report and agreed with his conclusion that a noisy work environment would be "a stress both physically and emotionally which would clearly worsen her fibromyalgia." He reiterated that "continuous exposure to loud noise is a stress and clearly worsens fibromyalgia."

By decision dated April 19, 2000, the Office found the evidence insufficient to support that appellant's fibromyalgia and tinnitus was causally related to her federal employment.

Appellant's counsel requested an oral hearing by letter dated May 8, 2000. A hearing was held on September 26, 2000 at which appellant was represented by counsel, provided testimony and submitted evidence.

Subsequent to the hearing appellant submitted an October 12, 2000 report by Dr. Kunkes and an October 3, 2000 report by Dr. Wilson. Dr. Kunkes stated that appellant was not claiming that her hearing loss was employment related. He reported appellant was exposed to 80 decibels of noise continuously during an eight-hour workday. Dr. Kunkes concluded that it was "not uncommon for people who have hearing loss to have loud noises exacerbate the problem and headaches as well as tinnitus would be expected side effects of this." Dr. Wilson concluded that appellant's fibromyalgia had been aggravated by loud noises.

By decision dated June 13, 2001, the hearing representative affirmed the denial of appellant's claim.

Appellant's counsel requested reconsideration in a June 12, 2002 letter.

In an August 7, 2002 letter, the employing establishment stated that the noise level in the loose in mail department was within the standards set by the Occupational Safety and Health Administration (OSHA).

By decision dated December 4, 2002, the Office denied appellant's request for modification of the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim including the fact that the injury and any disability or specific condition for which compensation is claimed is causally related to the employment injury.² A claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he or she claims compensation was caused or adversely affected by factors of the federal employment.³

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.⁴

ANALYSIS

This issue to be addressed is whether appellant has established that her tinnitus and fibromyalgia are causally related to employment factors.

Compensation for tinnitus may be awarded if the medical evidence establishes that an employee has employment-related tinnitus, including a finding that such a condition has caused or contributed to a permanent and ratable hearing loss.⁵ Compensation may also be awarded if it is shown that employment-related tinnitus caused an employee to incur medical expenses or to experience a loss in wage-earning capacity.⁶ In the instant case, Dr. Kunkes concluded appellant's tinnitus was due to the noise in her work environment and noted that the optimum noise range for appellant to be exposed to was 55 decibels. Dr. Kunkes' opinion does not

² *Tomas Martinez*, 54 ECAB ____ (Docket No. 03-396, issued June 16, 2003).

³ *Marlon Vera*, 54 ECAB ____ (Docket No. 03-907, issued September 29, 2003).

⁴ *Luis M. Villanueva*, 54 ECAB ____ (Docket No. 03-977, issued July 1, 2003).

⁵ See *Donald A. Larson*, 41 ECAB 947, 953-55 (1990); *Charles H. Potter*, 39 ECAB 645, 648-49 (1988). According to the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, an impairment percentage of up to five percent may be added for employment-related tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform activities of daily living; see A.M.A., *Guides* 246 (5th ed. 2001). Disturbances of vestibular function due to tinnitus may cause disequilibrium or otherwise prevent the usual activities of daily living.

⁶ See *Donald A. Larson*, *supra* note 5 at 953-54; *Charles H. Potter*, *supra* note 5 at 648.

contain any medical rationale explaining how or why appellant's tinnitus condition was caused or aggravated by factors of employment.⁷ Causal relationship must be established by rationalized medical opinion evidence.⁸ Appellant has failed to submit such evidence and, thus, has failed to meet her burden of proof to establish that her tinnitus was caused or aggravated by employment factors.

The next issue is whether appellant's fibromyalgia has been aggravated by her employment. In order to support her claim that her fibromyalgia has been aggravated by her employment, appellant must submit medical evidence establishing a causal relationship between her fibromyalgia and the workplace noise. In support of her claim, appellant submitted reports from Dr. Wilson. In an undated report, he stated that fibromyalgia is triggered by physical or emotional stress or trauma. Appellant first developed fibromyalgia after she was struck by a moving container. Dr. Wilson noted that he had reviewed Dr. Kunkes' report and agreed that a noisy work environment would be a "stress both physically and emotionally which would clearly worsen her fibromyalgia" and that "continuous exposure to loud noise is a stress and clearly worsens fibromyalgia. In his October 3, 2000 report, Dr. Wilson reiterated his opinion that appellant's fibromyalgia had been aggravated by the loud noises in her work environment. However, none of these reports provide a rationalized opinion supporting causal relationship of the diagnosed conditions of fibromyalgia to appellant's employment.

To establish a causal relationship between the condition, as well as any attendant disability claimed, and the claimed employment factor, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.⁹ Rationalized medical opinion evidence is medical evidence, which includes a physician's 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.¹¹ As Dr. Wilson failed to provide the requisite explanation for his conclusion, his opinion is unrationalized and is therefore insufficient to establish that appellant's fibromyalgia was caused or aggravated by her employment.

⁷ *William C. Thomas*, 45 ECAB 591 (1994).

⁸ *Robert S. Winchester*, 54 ECAB ____ (Docket No. 00-800, issued November 8, 2002) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship that is unsupported by medical rationale).

⁹ *Joan R. Donovan*, 54 ECAB ____ (Docket No. 03-297, issued June 13, 2003).

¹⁰ *Conard Hightower*, 54 ECAB ____ (Docket No. 02-1568, issued September 9, 2003).

¹¹ *Tomas Martinez*, *supra* note 3 (a rationalized medical opinion is one which is based on a complete factual and medical background with an accurate history of the claimant's employment injury and explains from a medical perspective how the current condition is related to the injury).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that her tinnitus and fibromyalgia are causally related to factors of her employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 4, 2002 is affirmed.

Issued: August 3, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member