

establishment notifying appellant that hearing test results revealed a possible physical condition that affected his hearing and recommended that he seek further evaluation.

Appellant submitted February 28, 2000 hearing loss data from the employing establishment. He also submitted an undated report summarizing his employment history noting that from 1977 to 1988 he was exposed to general construction noise for 6 to 7 hours a day, and from 1988 to the present to general construction noise caused by trucks, forklifts, cranes and metal hand tools. Appellant also submitted hearing loss data from January 18, 1989 to February 3, 2003. An employing establishment hearing loss test of February 3, 2003 revealed hearing loss at high decibel levels. The record also includes a July 29, 2004 medical clearance form from Dr. Douglas Myers, an otolaryngologist, and an accompanying audiogram of that date. The form report indicated that appellant might be a candidate for a hearing aid.

By letter dated August 17, 2004, the Office informed appellant of the evidence needed to support his claim.

On April 13, 2005 the Office referred appellant, a copy of his medical record and a statement of accepted facts, to Dr. Edsel Kim, a Board-certified otolaryngologist, for a determination as to whether his hearing loss was caused by his federal employment. In a statement of accepted facts dated April 6, 2005, the Office noted that appellant worked in a loud industrial environment for many years.

On April 28, 2005 Dr. Kim reported his findings on otologic examination and audiometric evaluation. He noted a possible acoustic neuroma due to the difference in hearing discrimination between the right and left ears. Dr. Kim noted that, at the time of appellant's initial noise exposure as a federal civilian employee, he had moderate left ear hearing loss and mild to moderate right ear hearing loss and that the results of an audiogram test taken that day revealed almost no change except for a slight decrease in the higher frequencies. Because appellant sustained only a slight change in hearing from 1989 to 2004, Dr. Kim found that appellant's hearing loss was not related to noise exposure in his federal employment.¹

In an August 30, 2005 decision, the Office denied appellant's claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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.³ These are the essential

¹ The earliest audiogram test was dated January 18, 1989.

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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 causal relationship, generally, 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

ANALYSIS

Appellant claimed that he sustained a hearing loss due to exposure to hazardous noise at work. Although the evidence establishes that appellant had noise exposure at work, the medical evidence does not support that it caused his hearing loss.

The Office referred appellant to Dr. Kim who, in an April 28, 2005 report, examined appellant and found that his hearing loss was not employment related. In explaining his opinion on causal relationship, Dr. Kim noted that appellant's hearing loss was present at the time he started his federal employment in 1988 and his hearing was essentially the same at the time of the April 28, 2005 audiogram test and evaluation. As his hearing loss did not worsen significantly during his federal employment, Dr. Kim concluded that appellant's hearing loss was not attributable to noise exposure in his federal employment.⁶ He found no basis on which to attribute appellant's hearing loss to his workplace noise exposure.

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

⁶ On April 28, 2005 Dr. Kim noted that the right ear showed hearing thresholds of 50, 50, 40 and 45 decibels at frequencies, respectively, of 500, 1,000, 2,000 and 3,000 cycles per second. The left ear showed hearing thresholds of 65, 65, 60 and 55 decibels at the same frequencies. The January 18, 1989 audiogram results of the right ear showed hearing thresholds of 45, 45, 15 and 20 decibels at frequencies, respectively, of 500, 1,000, 2,000 and 3,000 cycles per second. The left ear showed hearing thresholds of 65, 60, 60 and 50 decibels at the same frequencies.

Dr. Myer's July 29, 2004 medical clearance form and audiogram does not specifically address the cause of appellant's hearing loss. The record contains no other medical evidence that addresses whether appellant's employment caused or aggravated his claimed hearing loss. Consequently, the Board finds that appellant has not met his burden of proof to establish that his federal employment caused or contributed to his hearing loss.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the August 30, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 17, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board