

Decision of the Appeal Division

Number: 92-0541
Date: February 27, 1992
Panel: Hilrie Reimer
Subject: Asymmetrical Hearing Loss

The worker appeals from Review Board findings dated January 29, 1991. The issue is whether the hearing loss suffered by the worker in both ears is the result of industrial noise exposure and whether he is entitled to a pension. Also at issue is whether any award should include the condition of tinnitus.

The worker's union representative submits that the Review Board was in error by finding that the hearing loss of 25 dB in the right ear, accepted by the Workers' Compensation Board (W.C.B.) best represents the loss of hearing in both ears attributable to noise exposure. He further submits that the W.C.B. should accept not only the 25 dB in the worker's right ear but the 40 dB loss in the left as noise-induced hearing loss.

In summary, the representative states that it is reasonable in the circumstances that the full loss in both ears as a result of industrial noise should be accepted and a pension should be provided on this basis. Further, the pension should include the condition of tinnitus.

The representative makes reference to the material on file that indicates only where there arises a 20 to 25 dB difference between the two ears should some suspicion arise. In this case, the worker's hearing in his left ear is only 15 dB worse than his right and on only one scale, i.e. 1,000 Hz, is there a difference of over 25 dB. The representative points out that the Board's reference material states that a suspicion is only raised if the difference is over 20 to 25 dB; it does not categorically state that the noise cannot be the cause of the difference.

The representative also makes reference to the literature and the Review Board finding that noise-induced hearing loss is "almost always bilateral." The literature does not state that in all cases it is or must be equal bilaterally. He further submits that there is no other rationale to explain the additional hearing loss in the left ear as opposed to the right ear, other than the effects of industrial noise exposure. He cites Dr. S's letter of April 2, 1990 which states:

... He gave a fairly long history of noise exposure including ten years of working in [a sawmill] on a planer machine and 25 years in construction as well as other jobs logging, trucking, and in construction. He had worn ear protection only in the last five years, in the form of Class A ear plugs. There was no other history of relevance to his ears.

This panel of the Appeal Division found the representative's arguments extremely compelling but considered further medical information necessary. Copies of all medical reports and medical history forms and industrial audiometric summaries on file were referred to Dr. G for an opinion. Dr. G has more than ten years' experience in assessing hearing loss claims and was the former director of the Workers' Compensation Board's hearing branch. The panel enquired of Dr. G:

1. In your opinion does the 40 db best represent this worker's industrial hearing loss?
2. Can the tinnitus be related to industrial hearing loss and does it in any way enhance the 40 db hearing loss of the left ear?

Dr. G reviewed all of the documents and in a report dated January 24, 1992 stated in part:

All of the audiograms including his industrial audiogram are consistent one with the others and they all show a hearing loss which increases gradually from the low frequencies with the maximum hearing loss at 4 KHz. in both ears. The hearing loss in the left ear is somewhat greater than that in the right ear particularly at 1,000 Hz. by about 30-35 Db. *If the audiograms from each ear are considered independently they show a configuration that is typical of a noise-induced hearing loss consistent with his occupational noise exposure history despite the differences between the two ears.* (emphasis added)

Although there is no obvious reason for this asymmetry which can be found in the audiometric evidence, such as differences in the acoustic reflexes or the medical examination of the ears, which might influence the susceptibility of the two ears, there is nothing in the medical or audiometric information in the file to suggest any other cause for this difference.

Therefore, in view of the fact that the audiograms in both the right and the left ears are consistent with a noise-induced hearing loss, despite the differences, and in the absence of any medical or audiometric evidence to the contrary, it would be my conclusion that the hearing loss in both ears was caused by his occupational noise exposure. I do not believe that in this case the differences between the ears, by itself, can be considered as valid evidence for any other cause.

As far as his tinnitus is concerned it should be noted that this complaint is an exceedingly common accompaniment of noise-induced hearing loss. I do not think that the report that this preceded his complaint of hearing loss is a valid reason to suspect any other explanation. I do not believe that the tinnitus enhances or can be considered as a cause of the additional hearing loss in the left ear.

In summary, it is my opinion that all of this man's hearing loss is consistent with his occupational noise exposure, there being no other evidence, other than the asymmetry itself, to suggest any other cause. I also think that the tinnitus is an accompaniment of his hearing loss and not due to any other medical cause.

This panel has reviewed all the information on file and finds the overwhelming weight of evidence supports the worker's appeal. The Board's rationale for denying the acceptance of hearing loss in the right ear because there is an asymmetry with the left is outweighed by the other evidence on file. Moreover, the literature on file does not rule out the acceptance of asymmetry in hearing loss claims.

I also accept that in this case the tinnitus is an accompaniment of the industrially induced hearing loss.

THE WORKER'S APPEAL IS ALLOWED.

Editors' note: This decision has been edited for publication.

