
In the Matter of the Compensation of
DAVID WILSON, Claimant
WCB Case No. 15-01902
ORDER ON REVIEW
Gatti Law Firm, Claimant Attorneys
Law Offices of Sharon J Bitcon, Defense Attorneys

Reviewing Panel: Members Johnson and Weddell.

Claimant requests review of Administrative Law Judge (ALJ) Naugle's order that upheld the insurer's denial of claimant's occupational disease claim for bilateral hearing loss. On review, the issue is compensability. We affirm.

FINDINGS OF FACT

We adopt the ALJ's "Findings of Fact."

CONCLUSIONS OF LAW AND OPINION

The ALJ upheld the insurer's denial, finding that Dr. Johnson's opinion did not persuasively establish that work-related noise exposure was the major contributing cause of claimant's bilateral hearing loss. On review, claimant contends that Dr. Johnson's opinion persuasively establishes that his noise exposure working for a newspaper manufacturer was the major contributing cause of his bilateral hearing loss. For the following reasons, we disagree.

To establish the compensability of his occupational disease claim, claimant must prove that employment conditions were the major contributing cause of his hearing loss. ORS 656.802(2)(a). Employment conditions were the "major contributing cause" if they contributed more than all other causes combined. *Bowen v. Fred Meyer Stores*, 202 Or App 558, 563-64 (2005), *rev den*, 341 Or 140 (2006).

The compensability of claimant's hearing loss presents a complex medical question, which must be resolved with expert medical opinion. *Barnett v. SAIF*, 122 Or App 279, 282 (1992). Where the medical evidence is divided, we rely on those medical opinions that are well reasoned and based on complete and accurate information. *Somers v. SAIF*, 77 Or App 263 (1986).

Dr. Johnson, an audiologist, reviewed claimant's available audiograms from "1999 to present"¹ and opined that the major contributing cause of his bilateral hearing loss was industrial noise exposure. (Ex. 6-1). Dr. Johnson provided a chart, explaining that, "although [claimant's] hearing loss has progressed at all frequencies from 1999 until 2014, it has decreased significantly more at the frequencies of 3000 and 4000 Hz in the left ear and the frequency of 4000 Hz in the right ear." (*Id.*) Dr. Johnson opined that: "This is a clear indicator of noise-induced hearing loss." (*Id.*) Dr. Johnson concluded that claimant's "hearing loss is most likely (75% or greater) due to acoustic trauma due to industrial noise." (*Id.*)

Dr. Hodgson, an otolaryngologist, reviewed claimant's available audiograms from 1999 to 2015. (Ex. 3-11). He concluded that the overall pattern of claimant's hearing loss did not support industrial noise exposure as the major contributing cause. (Ex. 5-2) Dr. Hodgson explained that "noise-induced hearing loss is often most dramatic during the first 10 years of exposure" and that claimant's first audiogram in this record from 1999 (when he already had been working for the employer in the "paper-mill environment" for 23 years) did not demonstrate "very much at all in the way of hearing loss, regardless of cause." (*Id.*)

Dr. Hodgson further opined that "the pattern of [claimant's] hearing test has never been a noise-induced type curve, with 4000 hertz being greater than 6000 or 8000 hertz." (Ex. 3-5). He noted that claimant's hearing loss in "his left ear has increased at a greater rate than the right despite equal occupational noise exposure." (*Id.*) Dr. Hodgson explained that claimant's hearing loss at an increased rate since 1999 was consistent with aging and inconsistent with noise exposure. (Ex. 5-2). He observed that "noise-induced loss progresses more slowly over time, rather than accelerating over time, while age-related loss tends to increase as one gets older." (*Id.*) Taking all of these factors into consideration, Dr. Hodgson concluded that industrial noise exposure was not the major contributing cause of claimant's hearing loss. (Exs. 3-5, 5-2, 7-3).

Claimant contends that Dr. Hodgson's opinion regarding the impact of age on claimant's hearing loss changed without explanation from his initial report, (where he said that claimant's "hearing loss has increased from 1999 to the present at a greater rate than would be expected for age alone") and his subsequent concurrence letter. Based on the following reasoning, we disagree.

¹ The record is unclear about whether Dr. Johnson reviewed claimant's February 18, 2015 audiogram results completed for Dr. Hodgson.

In both his initial report and his concurrence letter, Dr. Hodgson acknowledged that claimant's left ear hearing loss was greater than would have been expected based on normal age-related hearing loss. (Exs. 3-5, 5-1-2). In his concurrence letter, he further clarified that he saw:

“nothing in [claimant's] records or test results to suggest that he exhibited an age-related loss at lower than the normative values; if anything, he likely exhibited greater age-related loss in the left ear at least than would ordinarily be expected. This in turn was strong evidence that the major cause of [claimant's] hearing loss was likely something personal to [claimant], whether it be purely age-related loss [or] some other personal factor.” (Ex. 5-1-2).

After considering Dr. Hodgson's comments, we do not find the additional information he provided regarding age as a causal factor in claimant's hearing loss to be an unexplained change of opinion. Rather, taken as a whole and read in context, Dr. Hodgson's initial report and his concurrence letter are consistent in that both supported greater left ear hearing loss than normally expected for simply age-related reasons, but that the greater loss was likely something personal to claimant.

Furthermore, Dr. Hodgson specifically disagreed with Dr. Johnson's opinion that a comparison of claimant's 1999 and 2014 audiograms showed greater hearing loss at 3000 and 4000 Hz than at other frequencies, indicating that the major contributing cause of the hearing loss must be noise. (Ex. 7-1-2). Rather, Dr. Hodgson observed that a chart of the results of claimant's 1999 through 2015 audiograms was “strikingly similar” to a typical age-related hearing loss progression graph. (Ex. 7-3; *Compare* Ex. 3-8 and Ex. 7-6).

Dr. Johnson did not specifically address Dr. Hodgson's opinion, rendering his opinion less persuasive. *See Janet Benedict*, 59 Van Natta 2406, 2409 (2007), *aff'd without opinion*, 227 Or App 289 (2009) (medical opinion less persuasive when it did not address contrary opinions). Although Dr. Johnson commented that other examiners may have missed the significant decrease at the 3000 and 4000 Hz frequencies in the left ear and the 4000 Hz in the right ear (Ex. 6), as shown above, Dr. Hodgson was aware of the basis for Dr. Johnson's causation opinion and specifically rebutted it. Moreover, Dr. Johnson did not specifically address age as a causal factor in claimant's hearing loss. Likewise, Dr. Johnson

did not address Dr. Hodgson's opinion regarding the degree to which age contributed to claimant's overall hearing loss, or that noise-induced hearing loss is more prevalent in the initial years of exposure and does not progressively increase in later years, unlike age-related hearing loss. Under such circumstances, we do not consider his opinion to be as complete or well-reasoned as Dr. Hodgson's opinion. *See Somers*, 77 Or App at 263 (more weight given to those opinions that are both well reasoned and based on complete and accurate information).

Therefore, based on Dr. Hodgson's persuasive opinion, the record does not establish that employment conditions were the major contributing cause of claimant's bilateral hearing loss. Accordingly, we affirm.

ORDER

The ALJ's order dated December 9, 2015 is affirmed.

Entered at Salem, Oregon on May 10, 2016