
In the Matter of the Compensation of
JAMES A. STRANGE, Claimant
WCB Case No. 02-01748, 01-05196, 01-05195, 01-05194
ORDER ON REVIEW

Welch Bruun & Green, Claimant Attorneys
Johnson Nyburg & Andersen, Defense Attorneys
Scheminske et al, Defense Attorneys
James B Northrop, SAIF Legal, Defense Attorneys
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Reviewing Panel: Members Lowell, Biehl, and Bock.

Claimant requests review of that portion of Administrative Law Judge (ALJ) Hazelett's order that: (1) admitted Exhibits 1 and 33 into evidence; and (2) upheld the compensability and responsibility denials of claimant's bilateral hearing loss condition issued by Gallagher Bassett on behalf of Freightliner Corporation; by the SAIF Corporation on behalf of MNM Cabinet Company; by Gallagher Bassett on behalf of Nicolai Door/Morgan Door; and by Liberty Northwest Insurance Company on behalf of Custom Cabinets by Don. On review, the issues are evidence, compensability and (potentially) responsibility.

We adopt and affirm the ALJ's order with the following supplementation.

With respect to the evidentiary issue, the ALJ admitted Exhibit 1, consisting of various medical reports Dr. Lindgren issued in hearing loss claims involving other claimants, and Exhibit 33, a copy of a newspaper article, over the objection of claimant. Neither exhibit was considered by the ALJ, however, in deciding the merits of the hearing loss claim, which was determined not to be compensable.

On review, claimant argues that the ALJ should not have admitted the disputed exhibits because they are not relevant to the compensability issue in this case. We need not decide the evidentiary issue because, regardless of whether we considered the disputed records, we would still conclude, for the reasons cited by the ALJ, that claimant failed to prove a compensable hearing loss claim.

In reaching this conclusion, we note that the ALJ discounted Dr. Lindgren's opinion, as well as that of Dr. Anderson, an examining physician, because (among other reasons) they were not aware of claimant's reported exposure to noise in the military. The implication of the ALJ's order is that their medical opinions, which supported compensability, should be discounted for lack of knowledge of an off-

work noise exposure. We note, however, that exposure to noise in the military may be considered a work-related factor in determining the compensability issue. *See Wallowa County v. Fordice*, 181 Or App 222 (2002).

Nevertheless, we agree with the ALJ's reasoning that the opinions of Drs. Lindgren and Anderson did not sufficiently weigh the relevant contributing factors in determining the major contributing cause of claimant's hearing loss. *See Dietz v. Ramuda*, 130 Or App 397 (1994), *rev dismissed* 320 Or 416 (1995). Moreover, like the ALJ, we find the contrary opinion of Dr. Hodgson to be well-reasoned and persuasive. Specifically, Dr. Hodgson analyzed the effect of claimant's gun use on claimant's hearing loss and his analysis of the configuration of claimant's hearing test was cogent and convincing. (Ex. 21.)

On this record, we find that claimant failed to sustain his burden of proving compensability. Accordingly, we affirm.

ORDER

The ALJ's order dated October 4, 2002 is affirmed.

Entered at Salem, Oregon on August 20, 2003