
In the Matter of the Compensation of
JIM L. CHISUM, Claimant
WCB Case No. 02-02917
ORDER ON REVIEW
Hooton Wold & Okrent LLP, Claimant Attorneys
Radler Bohy et al, Defense Attorneys

Reviewing Panel: Members Lowell, Biehl, and Bock. Member Biehl chose not to sign the order.

Claimant requests review of Administrative Law Judge (ALJ) Sencer's order that upheld the self-insured employer's denial of his occupational disease claim for binaural hearing loss. On review, the issue is compensability.

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

The ALJ upheld the employer's denial, finding the medical opinion of Dr. Hodgson, who examined claimant at the employer's request, more persuasive than that of Dr. Wilson, who also examined claimant. On review, claimant makes several arguments in support of his position that Dr. Hodgson's opinion is poorly reasoned and hence not persuasive. However, we agree with the ALJ's conclusion that Dr. Hodgson's opinion is well reasoned. More importantly, we also agree with the ALJ that the only medical opinion supporting compensability, Dr. Wilson's, is insufficient to satisfy claimant's burden of proof.

In particular, we note Dr. Wilson's assumption that claimant was exposed to 30 years of noise at a level of at least 100 decibels. (Ex. 27-2). Nevertheless, claimant testified that, while he did not often use hearing protection for the first five or six years of employment, he then "wised up" and used earplugs every day thereafter. (Tr. 17). According to claimant, the earplugs provided significant reduction in noise volume, estimated conservatively by claimant to be at 50 percent. (Tr. 18).

Having reviewed claimant's testimony, it appears that during the majority of his 35 year employment, he experienced a significantly reduced noise volume because of his use of hearing protection. His testimony does not support Dr. Wilson's assumption that claimant was "beaten up" by noise exposure. (Ex. 27-2). Accordingly, we conclude that Dr. Wilson's opinion is based on an inaccurate or incomplete history and is therefore unpersuasive. *See Somers v. SAIF*, 77 Or App 259 (1986) (persuasive medical opinions are based on accurate

and complete history); *Miller v. Granite Construction Co.*, 28 Or App 473, 478 (1977) (medical opinion based on inaccurate information is discounted).

In conclusion, we agree with the ALJ's decision upholding the employer's denial. Thus, we affirm.

ORDER

The ALJ's order dated July 2, 2003 is affirmed.

Entered at Salem, Oregon on December 31, 2003