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In the Matter of the Compensation of  
**DAVID L. BRUMAGE, Claimant**  
WCB Case No. 09-06892  
ORDER ON REVIEW  
Guinn & Munns, Claimant Attorneys  
Sather Byerly & Holloway, Defense Attorneys

Reviewing Panel: Members Lowell and Biehl.

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

We adopt and affirm with ALJ's order with the following supplementation.<sup>1</sup>

In upholding the employer's denial, the ALJ found that the medical evidence did not establish that claimant's employment conditions were the major contributing cause of his bilateral hearing loss. Relying on *Lecangdam v. SAIF*, 185 Or App 276 (2002), *Quentin J. Dodge*, 56 Van Natta 1003 (2004), *aff'd without opinion* 199 Or App 417 (2005), and *Henry R. Downs*, 48 Van Natta 2094, *recons*, 48 Van Natta 2200 (1996), the ALJ evaluated compensability based on claimant's entire hearing loss as of the date of claim filing in 2009.

On review, claimant argues that, because the medical evidence establishes that his employment conditions until 1994 were the major contributing cause of his bilateral hearing loss, his occupational disease claim is compensable.<sup>2</sup> For the following reasons, we disagree with claimant's argument.

To establish a compensable occupational disease, claimant must prove that employment conditions were the major contributing cause of his bilateral hearing loss. ORS 656.266(1); ORS 656.802(2)(a). The major contributing cause means a cause that contributes more than all other causes combined. *See Smothers v. Gresham Transfer, Inc.*, 332 Or 83, 133-34 (2001); *McGarrah v. SAIF*, 296 Or

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<sup>1</sup> In the first full paragraph on page 4 of the ALJ's order, we change the references to "2004" to "1994".

<sup>2</sup> The parties agree that claimant's "pre-1994" employment conditions were the major contributing cause of his bilateral hearing loss until 1994, but that, thereafter, employment conditions were not the major contributing cause of his occupational disease.

145, 166 (1983). Claimant's hearing loss "claim" consists of his entire hearing loss, not just any portion that may be attributed to work exposure. See *Lecangdam*, 185 Or App at 281-82; *Dodge*, 56 Van Natta at 1003.

Claimant requests that we overturn our *Dodge* holding, asserting that it was based on a misapplication of the *Lecangdam* court's reasoning. For the following reasons, we decline to take such action.

In *Lecangdam*, the court held that the claimant's high-frequency hearing loss and low-frequency hearing loss were one "disease," and that it was incumbent upon him to establish that his employment exposure was the major contributing cause of his *overall* hearing loss. 185 Or App at 282. In *Dodge*, we rejected the claimant's argument that the determination of compensability of his hearing loss should be at the time of his retirement (when his employment exposure ended), rather than at the time he filed his claim. 56 Van Natta at 1004. Relying on the *Lecangdam* court's rationale and our *Downs* holding, we explained that "a claimant is not permitted to extract a portion of a disease and claim only that portion is caused in major part by work exposure." *Id.* Considering the claimant's work-related exposure, as well as his "post-retirement," nonwork-related hearing loss (due to age), we concluded that the claimant did not establish the compensability of his occupational disease claim.

Our *Dodge* holding is consistent with the statutory requirement under ORS 6556.802(2)(a) that a claimant must prove that work-related noise exposure is the major contributing cause of the claimed occupational disease, as well as the *Lecangdam* rationale that a claimant may not "parse out" a compensable portion of his hearing loss.

Furthermore, we have consistently held that a hearing loss "claim" consists of a claimant's entire hearing loss, not only that portion that was caused in major part by work exposure. See *Barrett Behurst*, 60 Van Natta 2534 (2008); *William R. Shaw*, 54 Van Natta 524 (2002); *Downs*, 48 Van Natta at 2096. We have also previously held that a physician's opinion, which established that a claimant's work-related noise exposure *for a certain period of employment* was the major contributing cause of his bilateral hearing loss, was insufficient to establish that the claimant's work activities *during his entire employment* were the major contributing cause of his bilateral hearing loss. See *Frederick C. Dulley*, 51 Van Natta 24, 25-26 (1999).

In conclusion, we agree with the ALJ's determination that claimant did not establish the compensability of his occupational disease claim for bilateral hearing loss. ORS 656.266(1); ORS 656.802(2)(a). As explained above, although the parties agree that the medical evidence establishes that claimant's "pre-1994" employment exposure was the major contributing cause of his hearing loss before 1994, such evidence is insufficient to prove compensability here because claimant may not rely on that portion of his disease that is (or may be) work-related to prove a claim for a hearing loss condition. *Lecangdam*, 185 Or App at 282; *Dodge*, 56 Van Natta at 1003-04; *Dulley*, 51 Van Natta at 25-26. Consequently, we affirm.

ORDER

The ALJ's order dated July 1, 2010 is affirmed.

Entered at Salem, Oregon on January 7, 2011