U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALONZO J. BARBOSA and U.S. POSTAL SERVICE,
POST OFFICE, Weslaco, TX

Docket No. 99-612; Oral Argument Held March 3, 2000;
Issued June 9, 2000

Appearances: *Alonzo J. Barbosa, pro se*; *Paul J. Klingenberg, Esq.*,
for the Director, Office of Workers' Compensation Programs.

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant established that he had sustained an injury while in the performance of duty.

On October 3, 1997 appellant, then a 66-year-old clerk, filed a claim for occupational disease alleging that exposure to red ink caused an adverse impact on his ability to think and speak clearly, and caused a loss of eyesight and nausea.

By letter dated December 18, 1997, the Office of Workers' Compensation Programs advised appellant that he needed to submit additional information regarding his claim including a detailed narrative discussing the materials to which he was exposed, how he was exposed and how often. He was also required to submit a comprehensive medical report from his treating physician describing his symptoms and the doctor's opinion regarding the causal relationship between his condition and his employment.

By decision dated January 20, 1998, the Office denied appellant's claim on the grounds that he submitted no medical evidence to support his condition.

On January 23, 1998 appellant requested an oral hearing on the Office's January 20, 1998 decision denying benefits. A hearing was held on September 21, 1998 at which time appellant testified that exposure to various chemicals at work caused multiple illnesses.

By decision dated November 27, 1998, an Office hearing representative found that appellant had not established that he sustained an injury in the performance of duty as alleged. The Office hearing representative stated that appellant failed to submit medical evidence that he

had sustained an injury in the performance of duty and therefore affirmed the Office's January 20, 1998 decision denying benefits.

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim, including that he or she sustained an injury in the performance of duty as alleged.[2] In cases of occupational disease or illness, an employee must establish fact of injury by submitting medical evidence establishing that conditions or factors of employment caused an "injury" as defined in the Act and its regulations.[3]

Further, to establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the specific employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[4] The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[5] Causal relationship is a medical issue that can be established only by medical evidence.[6] The Board notes that the fact that a

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[1] 5 U.S.C. §§ 8101-8193.

[2] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *Cf. Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989) (the employee must submit, among other things, medical evidence establishing that the employment factors identified by the employee proximately caused the condition for which compensation is claimed). 5 U.S.C. § 8101(1)(5) defines "injury" in relevant part as follows: "'injury' includes, in addition to injury by accident, a disease proximately caused by employment." 20 C.F.R. § 10.5(a)(16) defines "occupational disease or illness" as follows: "[A] condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection; continued or repeated stress or strain; or exposure to hazardous elements such as, but not limited to, toxins, poisons, fumes, noise, particulates, or radiation, or other continued or repeated conditions or factors of the work environment."

[4] *See Victor J. Woodhams, supra* note 3.

[5] *Id*.

[6] *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

condition manifests itself or worsens during a period of employment does not raise an inference of an employment relationship.[7]

In the instant case, appellant failed to submit medical evidence that would support his claim of work-related occupational injury attributable to ink or other contaminants used while in the performance of his duty.[8]

As no further rationalized medical evidence of reasonable medical certainty and containing a definitive medical diagnosis of appellant's condition has been submitted, the Board finds that appellant has failed to establish his occupational injury or illness claim.

Accordingly, the decisions of the Office of Workers' Compensation Programs dated November 27 and January 20, 1998 are hereby affirmed.

Dated, Washington, D.C.
June 9, 2000

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

[7] *Paul D. Weiss*, 36 ECAB 720 (1985); *Hugh C. Dalton*, 36 ECAB 462 (1985).

[8] The Office advised appellant regarding the type of evidence he would need to submit in order to establish his claim.