

Appellant alleged inadequate cooling, heating and circulation, he noted that in 2000, an adjacent conference room had to be sealed off and were subsequently gutted for mold remediation. He stated that toxic mold was discovered through an independent testing agency and that the cause of the mold was not remedied.

On July 12, 2004 the Office notified appellant that the evidence submitted was not sufficient to establish his claim. Appellant was requested to provide comments from a knowledgeable supervisor regarding the accuracy of his statements and to identify any potentially harmful substances to which he had been exposed, including any fumes, dust or chemicals, whether he wore protective equipment and whether the irritant was visible in the air or on work surfaces. He was also asked to submit medical evidence in support of his claim. No further evidence was submitted.

On October 6, 2004 the Office issued a decision denying appellant's claim, finding that there was no medical evidence submitted that provided a diagnosis which could be connected to his employment.

On October 20, 2004 appellant requested a written review of the record and submitted a letter dated December 21, 2004 advising that he had filed three separate claims relating to his work environment and that he had cited allergic reactions relative to his office that he brought to the attention of the administrative officer throughout the previous four years. Appellant stated that the air had been finally tested and found to have a high level of toxic mold spores on April 14, 2000 and that Dr. Kueb Kern of San Antonio had treated his symptoms and had obtained x-rays of his chest and sinuses. Appellant reported that on June 1, 2004 he was treated by Dr. Raiqua S. Arastu of San Antonio for congestion and a sore throat. He related that on December 17, 2004 he experienced heavy bronchial congestion and asthma problems and that he was still being treated by Dr. Arastu. Appellant submitted a copy of an April 14, 2000 letter of an industrial hygiene consulting company which had tested the work side. Black mold, predominately *Stachybotrys*, a potentially toxigenic mold, was found behind the vinyl base molding with *Aspergillus* identified as a predominant mold in the carpet.

On April 4, 2005 a hearing representative of the Office affirmed the October 6, 2004 decision, finding that no medical evidence was submitted in support of the claim. The hearing representative stated that, although the record supported mold contamination, the record was devoid of any medical evidence supporting that the claimed respiratory condition was related to his federal employment.

LEGAL PRECEDENT

Under the Federal Employees' Compensation Act, a claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or materially adversely affected by his federal employment. As part of this burden he must submit rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation.¹ The prerequisite to compensation under the Act is that

¹ *Birger Areskog*, 30 ECAB 571 (1979).

there is a causal connection established by reliable, probative and substantial evidence between the employment and a personal injury sustained in the performance of duty or disease proximately caused by the employment. Proof must include supporting rationalized opinion of qualified medical experts based on complete and accurate medical backgrounds, establishing that the implicated incidents caused or adversely affected the ailment producing the work disablement.²

ANALYSIS

Appellant has submitted no medical evidence from a physician establishing that he sustained a respiratory congestion condition causally related to his federal employment. Although appellant reported that he saw three physicians between the years 2000 and the end of 2004, no medical report was submitted to the record. Although appellant submitted the results of testing performed on his office that indicated the presence of molds in the workplace, he did not submit medical evidence to explain how any exposure to these molds would cause or aggravate his respiratory condition. Appellant has failed to establish a *prima facie* claim that his employment caused his respiratory condition.³

CONCLUSION

Appellant did not establish that his respiratory congestion condition was causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 4, 2005 and October 6, 2004 are hereby affirmed.

Issued: September 7, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

² *Margaret A. Donnelly*, 15 ECAB 40 (1963).

³ *See Donald W. Wenzel*, 56 ECAB ____ (Docket No. 05-146, issued March 17, 2005).