

**United States Department of Labor  
Employees' Compensation Appeals Board**

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E.A., Appellant

and

**DEPARTMENT OF THE AIR FORCE,  
EIELSON AIR FORCE BASE, North Pole, AK,  
Employer**

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**Docket No. 07-1145  
Issued: September 7, 2007**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 22, 2007 appellant filed a timely appeal from the August 1, 2006 and February 20, 2007 merit decisions of the Office of Workers' Compensation Programs, which denied his claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of his claim.

**ISSUE**

The issue is whether appellant's renal cell carcinoma was causally related to his federal employment.

**FACTUAL HISTORY**

On April 12, 2006 appellant, then a 55-year-old insulator, filed a claim alleging that he sustained an injury as a result of his occupational exposure to asbestos. He submitted blood test results and radiological examination reports showing a mild left hilar fullness/enlarged

aorticopulmonary window, atherosclerotic peripheral vascular disease and mild degenerative changes in the thoracic spine.

In a decision dated August 1, 2006, the Office denied appellant's claim for compensation. The Office found that it received no information about how the injury occurred and that appellant submitted no diagnosis of a work-related injury.

Appellant requested reconsideration. He submitted additional medical reports identifying left renal cell carcinoma. Appellant explained that his claim was not for lung problems but for kidney problems. He described the chemicals he worked with, including spray adhesive, encapsulent, floor tile mastic remover, amended water, spray adhesive remover, paint and chemically-treated potable water. Appellant submitted a material safety data sheet for mastic remover, which stated: "Male rats exposed for 90 days by inhalation to vapors of similar solvents showed evidence of kidney damage. The relevance of this effect to humans is unknown." He submitted published general information on the incidence and etiology of renal cell carcinoma. In a January 26, 2007 report, Dr. Meng K. Khauv, an internist, stated:

"[Appellant] is a patient at our clinic. He was found to have left kidney tumor during his annual physical through the Medical Surveillance Program at work at Eielson Air Force Base. [Appellant] had left kidney surgically removed on June 5, 2006. The pathology reported the tumor as renal cell carcinoma. There is no known cause for the renal cell carcinoma. There are some risk factors associated with the development of the cancer, such as cigarette smoking, genetic and familial settings. Occupational exposure may relate to the development of the cancer but ... no definite carcinogen has been identified."

In a decision dated February 20, 2007, the Office reviewed the merits of appellant's claim and modified its prior decision to find the occupational exposure occurred as alleged. The Office denied compensation, however, finding the medical evidence did not establish a causal relationship between the work exposure and appellant's kidney disease.

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>1</sup> An employee seeking compensation under the Act has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8102(a).

<sup>2</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

Causal relationship is a medical issue<sup>3</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>4</sup> must be one of reasonable medical certainty<sup>5</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>6</sup>

The mere fact that a condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.<sup>7</sup> Newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship as they are of general application and are not determinative of whether the specific condition claimed was causally related to the particular employment injury involved.<sup>8</sup>

### ANALYSIS

The Office accepts that appellant's federal employment exposed him to spray adhesive, encapsulate, mastic remover, amended water, spray adhesive remover, paint and chemically-treated potable water. Appellant has established his exposure to these materials as alleged. The question for determination is whether his renal cell carcinoma is causally related to his exposure.

The only medical opinion addressing this issue comes from Dr. Khauv, the internist. But he did not support appellant's claim. Dr. Khauv explained that there was no known cause for the renal cell carcinoma. He noted some risk factors associated with the development of the cancer and added that occupational exposure "may relate to the development of the cancer," but he stated no definite carcinogen was identified. To establish entitlement to workers' compensation benefits, appellant must submit an affirmative opinion from a physician who supports his opinion with sound medical reasoning. Without a well-reasoned medical opinion explaining how appellant's occupational exposure to specific materials caused or aggravated or otherwise contributed to his renal cell carcinoma, appellant has not met his burden of proof. His own belief is not enough. Causal relationship is a medical issue and can be established only by a well-reasoned medical opinion. The published information on the incidence and etiology of renal cell carcinoma and the material safety data sheet for mastic remover are of general application and do not establish that appellant's renal cell carcinoma was causally related to his occupational

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<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>6</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>7</sup> *Steven R. Piper*, 39 ECAB 312 (1987). Mere temporal relationships are thus distinguished from relationships of causation.

<sup>8</sup> *Gaetan F. Valenza*, 35 ECAB 763 (1984); *Kenneth S. Vansick*, 31 ECAB 1132 (1980).

exposure to specific materials.<sup>9</sup> The medical evidence of record lacks an opinion from a physician which demonstrates a complete understanding of appellant's occupational exposure and explanation for how this exposure caused or contributed to appellant's diagnosed kidney condition.

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that his renal cell carcinoma was causally related to his federal employment. The Office accepts his occupational exposure to specific materials, but the medical opinion evidence does not establish a causal relationship between this exposure and the diagnosed carcinoma.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 20, 2007 and August 1, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 7, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>9</sup> See *id.*