

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SANDRA BAKER and U.S. POSTAL SERVICE,
POST OFFICE, Los Angeles, Calif.

*Docket No. 96-1507; Submitted on the Record;
Issued June 5, 1998*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she developed an aggravation of her asthma due to factors of her federal employment.

The Board has duly reviewed the case on appeal and finds that appellant has failed to meet her burden of proof in establishing an aggravation of her asthma due to factors of her federal employment.

Appellant filed a claim on November 1, 1995 alleging on September 11, 1995 she realized that her asthmatic bronchitis was aggravated by factors of her federal employment. The Office of Workers' Compensation Programs requested additional factual and medical information from appellant and the employing establishment on November 22, 1995. Appellant and the employing establishment responded and by decision dated April 1, 1996 the Office denied appellant's claim for failure to establish fact of injury.

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 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. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between

the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹

In this case, appellant attributed her aggravation of asthmatic bronchitis to a faulty air conditioner in the employing establishment. Appellant stated that the air conditioning system ceased to function on September 8, 1995. Appellant alleged that the building was very hot and stuffy from the lack of air circulation. She stated that on Monday, September 11, 1995 the air conditioning had not been repaired and that the uncomfortable conditions remained. Appellant stated the employing establishment provided large fans which “were really no help there were not enough and the only air was blowing was either warm or hot as well as other air particles blowing in the wind.” She alleged on September 12, 1995 she began wheezing as a result of these conditions.

Appellant’s supervisor completed an employing establishment form and indicated that the air conditioning did not stop working until September 13, 1995. He stated that a portable unit was installed until the air conditioner was repaired. In a statement dated December 6, 1995, the employing establishment explained that the building equipment included two central air conditions units and that on September 13, 1995 one of the units ceased functioning. The employing establishment purchased four large fans and installed a portable air conditioning unit on September 15, 1995. The employing establishment noted that appellant worked on September 13 and 14 and used sick leave on September 15, 1995. The employing establishment further stated that the temperature did not exceed 78 degrees and that there was neither a circulation nor a chemical problem with the building.

Appellant has attributed her condition to factors of her federal employment. However, appellant’s burden of proof is not discharged simply because she has identified a factor or factors which may give rise to compensability under the Federal Employees’ Compensation Act. These factors must be substantiated.² The Board finds that the record in this case does not substantiate that appellant was exposed to poor air circulation or excessive temperatures beginning on September 8, 1995. The employing establishment has established that the air conditioning system was fully functional until September 13, 1995. The employing establishment has also asserted that the temperature did not exceed 78 degrees and that the air circulation was adequate. However, the employing establishment also noted that fans were used while the air conditioning system was inoperative beginning September 13, 1995 and that a fan was placed directly in front of appellant. The employing establishment did not deny that particulate matter such as dust increased due to these measures. Therefore, the Board accepted that appellant sustained an employment-related exposure to dust on September 13 and 14, 1995.

The medical evidence submitted consists of a report dated October 20, 1995 from Dr. Kenneth Pong, a Board-certified family practitioner, noting that appellant alleged that she was exposed to dust and hot air in the performance of duty. Dr. Pong examined appellant on October 13, 1995 for complaints of fatigue and wheezing. Dr. Pong did not provide an opinion

¹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

² *Alice M. Washington*, 46 ECAB 382, 389 (1994).

on the causal relationship between appellant's symptoms and her federal exposure and his report is not sufficient to meet appellant's burden of proof.

In a report dated December 1, 1995, Dr. Pong stated appellant had an asthmatic condition. He stated:

"Asthma may be exacerbated by dust and pollens in the air. The patient stated that when the air conditioning in her building ceased functioning, more dust developed in her work environment which exacerbated her asthma. Asthma can be exacerbated if the patient should have allergies to dust and pollens."

This report is not sufficient to meet appellant's burden of proof as Dr. Pong did not opine that appellant had allergies to dust and pollens. He instead speculated that if a patient with an asthmatic condition had allergies then the condition could be exacerbated.

As appellant has failed to submit the necessary medical opinion evidence opining that there was a causal relationship between her diagnosed condition and the accepted factor of employment, she has failed to meet her burden of proof.

The decision of the Office of Workers' Compensation Programs dated April 1, 1996 is hereby affirmed.

Dated, Washington, D.C.
June 5, 1998

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member