

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of HENRA F. BOOKER and U.S. POSTAL SERVICE,  
INFORMATION SYSTEMS SERVICE CENTER, St. Louis, MO

*Docket No. 00-723; Submitted on the Record;  
Issued January 25, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant sustained a medical condition in the performance of duty causally related to factors of her employment.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the Office of Workers' Compensation Programs' hearing representative, dated October 23, 1998 and finalized October 26, 1998, is in accordance with the facts and the law in this case and hereby adopts the findings of the Office hearing representative. In his October 26, 1998 decision, the Office hearing representative found that appellant had failed to establish that she sustained a medical condition in the performance of duty causally related to exposure to chemicals at work.

Subsequent to the issuance of the Office hearing representative's October 26, 1998 decision, by letters dated July 13 and November 1, 1999, appellant requested reconsideration and submitted additional evidence. By decision dated August 11, 1999, the Office denied modification of its October 26, 1998 decision. By decision dated November 23, 1999, the Office denied modification of its August 11, 1999 decision.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim. The claimant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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.<sup>3</sup>

In her requests for reconsideration dated July 13 and November 1, 1999, appellant submitted a medical report dated October 9, 1998, which was previously submitted and considered by the Office hearing representative in his October 26, 1998 decision, copies of other medical reports not previously considered by the Office, her affidavit dated July 8, 1999 and a two-page listing of various court decisions.

In her affidavit dated July 8, 1999, appellant stated her opinion that her chemical sensitivity condition was caused by her employment. However, lay individuals such as appellant are not competent to render a medical opinion.<sup>4</sup> Therefore, her affidavit is not sufficient to establish that she sustained a medical condition in the performance of duty causally related to factors of her employment.

The listing of court cases provided by appellant is of no probative value in this case as appellant did not provide any discussion of how these decisions relate to her claim.

In a report dated May 30, 1997, Dr. Banti Mahanta, a radiologist, noted that chest x-rays revealed no evidence of active pulmonary disease. Because he did not find evidence of a medical condition this report is not sufficient to establish that appellant sustained a medical condition in the performance of duty causally related to factors of her employment.

In a report dated May 30, 1997, Dr. Chintana S. Phipatanakul, a Board-certified internist specializing in allergy and immunology, related that allergy tests revealed that appellant showed a slight positive reaction to mold, dust and feathers. He noted that she complained that smoke and odors caused problems for her. However, Dr. Phipatanakul did not provide a rationalized medical opinion explaining the relationship, if any, of appellant's allergies to her job. Therefore, this report is not sufficient to discharge appellant's burden of proof.

In a report dated May 20, 1999, regarding his examination of appellant on February 25, 1999, Dr. Tipu Sultan, a Board-certified pediatrician, specializing in allergies, related that appellant complained of various symptoms including headaches, burning and itching of the skin and eyes and chest tightness when exposed to chemicals including cigarette smoke, perfume, cologne and other personal grooming products such as hair spray. He related that chemical

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<sup>3</sup> *Gloria J. McPherson*, 51 ECAB \_\_\_\_ (Docket No. 98-805 (2000); *Jerry D. Osterman*, 46 ECAB 500, 507 (1995).

<sup>4</sup> *See Sheila Arbour (Victor E. Arbour)*, 43 ECAB 779, 787 (1992).

testing revealed a positive reaction to hydrocarbon glycerine, chlorine and perfumes and colognes.

Dr. Sultan stated:

“In my opinion, [appellant] suffers from significant chemical sensitivity and in order for her to work in a working environment, she needs a chemically safe environment to be provided.... [A] cleaner [work] environment is absolutely mandatory for her recovery and ability to work in her current job. Major environmental triggers at her job include perfumes, colognes, tobacco smoke, building maintenance supplies, floor cleaning products and bathroom cleaning products, fumes from copying machines and computer related equipment and poor ventilation.... [B]ased on [appellant’s] history, it is plausible that her work environment has contributed significantly to her current condition.”

However, Dr. Sultan’s report is not based upon a complete and accurate factual background as the record shows that appellant had not been exposed to environmental work factors since April 1998, almost one year prior to Dr. Sultan’s examination. Furthermore, he did not reference any environmental studies regarding appellant’s workplace and seemed to base his comments regarding the nature and extent of appellant’s exposure to chemicals at work, merely on the history given to him by appellant. Additionally, Dr. Sultan failed to provide sufficient medical rationale explaining how appellant’s chemical sensitivity condition was caused or aggravated by her work environment. Due to these deficiencies, this report is not sufficient to establish that appellant sustained a medical condition in the performance of duty causally related to factors of her employment.

In a report dated October 19, 1999, Dr. Sultan stated his opinion that appellant’s chemical sensitivity condition was due to her job and he provided copies of chemical tests. He stated that appellant’s exposure to airborne chemicals played a major role in causing her chemical sensitivity condition. The test results provided by Dr. Sultan contained appellant’s description of her subjective symptoms before and after exposure to various chemicals. There is no indication that the testing consisted of anything more than appellant’s subjective complaints of symptoms. Furthermore, Dr. Sultan provided insufficient medical rationale explaining how appellant’s chemical sensitivity condition was caused or aggravated by her exposure to chemicals at work. Therefore, this report does not discharge appellant’s burden of proof.

While appellant may well have a sensitivity to certain chemicals, she has failed to submit sufficient medical evidence establishing that her condition was caused or aggravated by factors of her employment and has, therefore, failed to carry her burden of proof.<sup>5</sup>

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<sup>5</sup> See Patrick H. Hall, 48 ECAB 514 (1997).

The decisions of the Office of Workers' Compensation Programs dated November 23 and August 11, 1999 are affirmed.

Dated, Washington, DC  
January 25, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member