

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HOWARD N. DUNBAR and DEPARTMENT OF THE NAVY,
NAVAL AMBULATORY CARE CENTER, Newport, RI

*Docket No. 02-354; Submitted on the Record;
Issued July 5, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

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

On April 19, 2001 appellant, then a 66-year-old voucher examiner, filed a notice of occupational disease alleging that factors of his employment contributed to him having a heart attack at work on January 29, 2001.¹ He was off work from January 29, 2001 and was scheduled to return on April 2, 2001 for four hours per day. Appellant reported to work on April 2, 2001 and was then off work from April 3 to 6, 2001. He retired effective April 6, 2001.

In an attachment to his CA-2 claim form, appellant noted that he had no heart problems since 1993 and that he had stopped smoking in 1993. He related that he returned to work on January 15, 2001 following bereavement leave and was asked to cover the voucher examiner desk and the travel desk with no back up. Appellant stated that he began experiencing angina problems during the week of January 22 to 26, 2001 and was taking nitroglycerin pills for chest pains during that time frame. He indicated that he suffered a heart attack on January 29, 2001 and was off work until April 2, 2001 when he returned to his office to find his desk piled up with paperwork. Appellant stated that he resigned April 6, 2001 due to his heart condition and on the advice of his treating physician.

The employing establishment submitted copies of relevant employment documents including a position description for the job of a voucher examiner.

In a March 12, 2001 report, Dr. Robert H. Schwengel, a Board-certified internist, noted that appellant was seen for very severe coronary artery disease, status post coronary bypass grafting. He also noted appellant's history of significant diabetes, renal insufficiency and

¹ The Office of Workers' Compensation Programs has inexplicably listed the date of injury for this claim as January 17, 2001.

peripheral vascular disease that complicated his heart condition. Dr. Schwengel reported that appellant was doing well following his surgery and could return to work for four hours per day gradually increasing his workload as his physical condition allowed.

In an April 6, 2001 letter prepared for the employing establishment as a medical excuse note, Dr. Ralph T. Earp, a Board-certified internist, reported that after appellant's recent hospitalization it was his opinion that appellant should not return to work as his "medical condition was aggravated by his current position."

In a treatment note dated April 9, 2001, Dr. Earp referenced his April 6, 2001 letter and noted that appellant had been hospitalized for chest pain related to stress at work. He indicated that appellant had no further complaints of chest pain or shortness of breath since leaving work.

In statements dated May 17 and June 28, 2001, appellant's supervisor noted that appellant had been seen smoking by various employees at work since he started his position in February 2000. She indicated that appellant had been asked to cover a travel desk while another employee was on leave. Appellant stated that she had been out sick on January 22 and 23, 2000 for unknown reasons and that he was assigned to provide back-up coverage for the travel desk for a four-day period before having his heart attack. She noted that appellant was only asked to do 50 percent coverage of each desk assigned to him and was simply to keep documents moving and advise his superiors if he needed assistance. Appellant stated that appellant's work assignment was not physically demanding and that she had not been aware of appellant's angina or stress problems prior to his heart attack.

In a June 12, 2001 letter, the Office advised appellant of the factual and medical evidence required to establish his claim for compensation.

In a statement dated August 1, 2001, appellant again denied that he was a smoker. He alleged that his job was stressful and that he was not given any help. Appellant alleged that his preexisting heart condition was aggravated by the stress of the added work of filling in on the travel desk.

In a decision dated October 2, 2001, the Office denied compensation on the grounds that appellant failed to establish fact of injury. The Office noted that appellant's statements were insufficient because it was unclear what aspects of his employment he considered to be detrimental to his health.

The Board finds that appellant failed to establish he sustained an injury in the performance of duty.

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 appellant 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 claimant.² The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's 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 upon a complete factual and medical background, must be one of reasonable medical certainty, and must provide a medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.³

In this case, the Office determined that appellant failed to establish fact of injury because he did not identify the employment factors which he believed were detrimental to his health. The Office essentially treated appellant's claim as a traumatic injury claim identifying January 17, 2001 as the date of injury. This was incorrect. Appellant filed an occupational disease claim and alleged that his heart attack on January 29, 2001 was caused or aggravated by stress at work when he was required to perform duties at the travel desk in addition to his regularly assigned duties in the position of a voucher examiner. The employing establishment has acknowledged that appellant was asked to cover the duties of an absent employee at the travel desk. The record also indicates that appellant sustained a heart attack at work on January 29, 2001. Appellant identified a compensable employment factor.

Notwithstanding, the Board finds that the medical evidence is insufficient to sustain appellant's burden of proving that his work factors caused or aggravated his heart attack. The element of causal relationship as discussed previously must be established by rationalized medical evidence. Appellant was advised of the nature of that evidence required to establish his claim by the Office letter dated June 12, 2001. Although Dr. Earp has stated that appellant's medical condition was aggravated by stress at work, the physician did not explain with any detail the specific work factors, nor did he provide any medical rationale for concluding that appellant's heart condition was related to his employment when appellant had a history of prior heart problems beginning in 1993. In the absence of a rationalized medical opinion to establish a causal relationship between appellant's heart attack and his work factors, the Board concludes that appellant is not entitled to compensation.

² *George A. Ross*, 43 ECAB 346 (1991); *James D. Carter*, 43 ECAB 113 (1991).

³ *James D. Carter*, *supra* note 2.

The October 2, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed as modified.

Dated, Washington, DC
July 5, 2002

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member