

On October 19, 2007 appellant, then a 35-year-old firefighter and emergency medical technician, filed an occupational disease claim alleging that dust, smoke and temperature changes contributed to the worsening of her cold while she performed her duties as a firefighter at the employing establishment in Montana. Her supervisor acknowledged her exposure to the

conditions alleged to have caused her condition, noted that they had ceased and pointed out her return to work on September 4, 2007.

On October 11, 2007 the Office advised appellant as to the evidence needed to establish her claim. It specifically requested a medical report which should include “an explanation of how such exposure contributed” to her claimed condition. On October 15, 2007 the Office received a report dated September 4, 2007 by Alistair Fyfe, M.D., who noted that appellant complained of cough, cold and congestion “for the last 10 days or so.” Dr. Fyfe’s impression was: “Mild bronchitis, some degree of serious otitis and probably mild sinusitis.” He offered no explanation for the cause of the condition. Between October 22 and November 26, 2007, the Office received two reports from Raymond A. Howard, D.O., who saw appellant on October 10, 2007. Dr. Howard found clear lungs, no wheezing but reported “a harsh, dry bronchitic cough in the office.” He reported that appellant was a one-pack-a-day smoker and that he prescribed Chantix to help her stop smoking and medication to help her sleep along with prednisone. Appellant visited Dr. Howard again on November 5, 2007 for treatment of her cough. Dr. Howard noted that he did not believe appellant had taken the Chantix and that she reported to him that she had not smoked in the last four days. He scheduled pulmonary function tests, gave appellant samples of Nexium and noted that he wanted to continue smoking cessation treatments. A spirometry test was performed on November 6, 2007 and bears a handwritten notation, without any legible signature, that the results were normal. Dr. Howard did not provide any explanation concerning causal connection between appellant’s pulmonary condition and her employment.

By decision dated January 7, 2008, the Office denied the claim.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) medical evidence 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 employee 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 employee.¹

When working conditions are alleged as factors causing disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship, and which working conditions are not deemed factors of employment and may not be so considered.²

¹ *Judith A. Peot*, 46 ECAB 1036 (1995); *Durwood H. Nolin*, 46 ECAB 818 (1995).

² *Elizabeth W. Esnil*, 46 ECAB 606 (1995).

ANALYSIS

Appellant has failed to sufficiently explain the type and extent of her employment activities with regard to exposure to smoke, dust or changes in temperature or the time frame in which she alleges that she was exposed. Although the Office has generally accepted that she was exposed to smoke, dust and temperature changes, her burden includes the submission of a detailed description of the employment factors or conditions which she believes caused or adversely affected the condition or conditions for which compensation is claimed.³ In this case, appellant has not provided enough information for the Office to establish that her condition was caused or aggravated by her employment. Without detailed information about what occurred, a physician cannot evaluate factual allegations of an event or exposure. For example, appellant has not stated how long she believes she was exposed to any particular irritant such as smoke or dust. She has not described her exposure to “changes of temperature” or what she thought the temperatures involved might have been. Appellant has not described the symptoms, onset or any other particulars of the condition she claimed is related to her employment. She has not described where she was in the general area of the fire or what she did during the period she was working.

If an employee implicates a factor of employment, the Office should determine whether the evidence of record substantiates that factor.⁴ It must give appellant’s description of the event or exposure a fair and careful evaluation. If, however, her allegations are insubstantial, the Office cannot make a determination that the alleged factors are causally related to a diagnosed condition. The facts required to establish an employment incident or to describe an employment factor must necessarily vary from one claim to another. Appellant has failed to describe her claim or present evidence with sufficient specificity to the Office and has failed to submit medical evidence establishing that her cough and cold are causally connected to her employment activities as a firefighter and emergency medical technician.

CONCLUSION

The Board finds that the Office correctly denied appellant’s claim for occupational disease.

³ *Anne L. Livermore*, 46 ECAB 425 (1995).

⁴ *Angie Brumfield*, 46 ECAB 867 (1995).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 7, 2008 is affirmed.

Issued: October 17, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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