

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

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**R.R., Appellant**

**and**

**DEPARTMENT OF THE NAVY,  
PHILADELPHIA NAVAL SHIPYARD,  
Philadelphia, PA, Employer**

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**Docket No. 11-1403  
Issued: January 25, 2012**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On May 24, 2011 appellant filed a timely appeal from the December 15, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied his prostate cancer claim.<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant's prostate cancer is causally related to his federal employment.

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<sup>1</sup> The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On April 27, 2010 appellant, a 57-year-old ship propeller finisher, filed an occupational disease claim alleging that his prostate cancer was the result of his federal employment. He explained that the propeller shop was dusty with metallic particles and abrasive grit and that he was exposed to a variety of toxic substances, including trichloroethane and methylchloroform.

In a decision dated December 15, 2010, OWCP denied appellant's claim. It found that he had established the following elements: he was a federal civilian employee who filed a timely claim; the exposure was accepted;<sup>3</sup> he was in the performance of duty; and a medical condition was diagnosed. OWCP found, however, that there was no medical evidence to support that his prostate cancer was causally related to the accepted occupational exposure: "Your physician must explain how the work event(s) caused or affected your condition, based upon an accurate factual and medical history, citing objective findings in support of the opinion."

On appeal, appellant submitted evidence to show that he had accepted conditions for other work-related injuries, including lumbosacral sprain, early peripheral neuropathy and left frontal parietal contusion. He advised of his surgery for cancer, which he believes is job related because of the work he did and the medical reports from the shipyard doctor and OSHA. Appellant claimed total disability and asked to be awarded compensation for the peripheral neuropathy of both arms and legs. He stated that he has worked no other jobs. Appellant also submitted a June 7, 2011 report from a nurse practitioner.

## **LEGAL PRECEDENT**

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>4</sup> An employee seeking benefits under FECA 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>5</sup>

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<sup>3</sup> The employing establishment explained that it could not acknowledge the accuracy of appellant's statements because he had been off the rolls since December 20, 1986. It provided his job description as of that date, which included the following: A ship propeller finisher helper works in a dusty, noisy atmosphere performing under many adverse conditions as the job dictates, and is exposed to cleaning vapor, paint spray dust and other chemical odors present in the areas of propeller manufacture. Most of the work in the Propeller Shop is dusty and noisy with metallic and nonmetallic particles of abrasive grit and chips ever present in the air. Proper safety equipment is provided to protect the employee from the constant conditions and each individual is expected to observe and obey all of the existing safety rules and regulations.

<sup>4</sup> 5 U.S.C. § 8102(a).

<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

Causal relationship is a medical issue,<sup>6</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>7</sup> must be one of reasonable medical certainty,<sup>8</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>9</sup>

### ANALYSIS

OWCP accepted that appellant's work exposed him to certain environmental factors, at least insofar as those factors are reflected in the relevant position description. Appellant alleged an unquantified exposure to trichloroethane and methylchloroform. The question his claim presents is whether his occupational exposure caused his prostate cancer.

This is a medical question. A physician who is familiar with appellant's work environment, who demonstrates a rather detailed understanding of the environmental factors to which appellant was exposed, must address whether this environment had anything to do with the development of appellant's prostate cancer. Any physician supporting causal relationship must offer a convincing medical explanation. The opinion must not be speculative or equivocal.

Appellant has submitted no medical opinion evidence to support his claim. The Board has reviewed the evidence of record submitted in this case, and no physician has drawn a causal connection between appellant's prostate cancer and his work as a ship propeller finisher or has attempted to explain such relationship. Without a well-reasoned medical opinion showing a causal relationship, appellant has not met his burden to establish a critical element of his claim. The Board will therefore affirm OWCP's December 15, 2010 decision denying compensation.<sup>10</sup>

Appellant's other work injuries are not relevant to his prostate cancer claim, which is the only claim presently before the Board. OWCP's December 15, 2010 decision did not rule on his entitlement to compensation for an accepted peripheral neuropathy. The Board has no jurisdiction to consider that issue. Appellant believes that his prostate cancer is work related, but his opinion cannot establish the element of causal relationship. This is a medical question that must be resolved by a qualified physician. The June 7, 2011 report from a nurse practitioner is not from a qualified physician, and it constitutes new evidence that the Board may not consider.

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<sup>6</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>7</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>8</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>9</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>10</sup> *See R.B.*, Docket No. 11-498 (issued December 8, 2001) (in which OWCP denied, as unsupported by the evidence, the employee's claim that he contracted prostate cancer as a result of the continuous hostile employment environment caused by stressful interactions with his supervisor).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that appellant has not met his burden to establish that his prostate cancer is causally related to his federal employment. Appellant has submitted no medical opinion to support his claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 15, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 25, 2012  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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