

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of FRANK CHAVES, claiming as widower of BERENICE CHAVES and  
DEPARTMENT OF THE AIR FORCE, AIR FORCE LOGISTICS COMMAND,  
KELLY AIR FORCE BASE, Tex.

*Docket No. 96-2597; Submitted on the Record;  
Issued August 25, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof to establish that the employee's death on October 8, 1994 was causally related to her September 7, 1982 employment injury.

On September 22, 1982 the employee, then a 58-year-old accounting technician, filed a traumatic injury claim alleging that on September 7, 1982 she injured her back in the performance of duty. The Office of Workers' Compensation Programs accepted the employee's claim for lumbar strain and a temporary aggravation of an underlying L5-S1 back condition, and paid her compensation benefits until her death on October 8, 1994. The Office further noted that the employee had concurrent nonemployment-related conditions of a herniated nucleus pulposus at L4-5 for which she underwent surgery in 1976 and arteriosclerotic heart disease for which she had coronary by-pass surgery.

By letter dated February 24, 1995, appellant, the employee's husband, requested survivor's benefits.

The death certificate, completed by Dr. James B. Morrison, a Board-certified internist and the employee's attending physician, indicated that the immediate cause of death was an acute myocardial infarction due to atherosclerotic heart disease.

In a report dated January 5, 1995, Dr. Morrison related that he treated the employee from January 1973 until her death and stated:

“Although the cause of her death was an acute myocardial infarction, some of the contributing factors to this were, diabetes mellitus and more specifically, chronic pain associated with a work[-]related back injury which had caused [the employee] to be totally disabled for a number of years. She was in chronic pain

and required large doses of analgesic and mild narcotics to keep her under control. There is every probability that this chronic pain and inability to get adequate relief played some part in the development of her cardiovascular disease, and in my opinion should be considered a contributing factor.”

In a report dated January 30, 1995, Dr. James L. Growney, an osteopath, related that he treated the employee from November 1984 to June 1994 with nerve block treatments to relieve pain in the back and lower extremities.

By letter dated April 3, 1995, the Office requested a rationalized medical report discussing the cause between the employee’s death and her September 7, 1982 employment injury. The Office provided appellant 30 days to respond to the request.

Appellant did not respond within the time allotted.

By decision dated May 4, 1995, the Office denied appellant’s claim on the grounds that the evidence did not establish a causal relationship between the employee’s death on October 8, 1994 and her accepted employment conditions.

By letter dated April 19, 1996, appellant requested reconsideration of his claim.

Appellant submitted a report dated April 11, 1996 from Dr. Morrison, in which he noted that the employee had a history of arteriosclerotic heart disease and two coronary bypass surgeries. He further noted that the back injury did not cause her arteriosclerosis but did cause severe back pain on October 6, 1994. He related:

“On October 6, she called crying because of severe pain in the back. It was at that time that we gave her Percodan. Then over the next couple of days she took a total of eight Percodan tablets for this pain. She was diabetic, was not eating, was very miserable and the relationship that I am trying to establish in this case, is that severe pain with a known existing arteriosclerotic heart disease were connected, in that this stressful situation that she had, as a result of the back pain, could have very well been a major contributing factor to her terminal heart attack. It is certainly well recognized that severe stress or physical activity can precipitate heart attacks. In my opinion, I think there was a relationship here which, if not directly, at least indirectly could [have] contributed to her terminal event. I would be the last to try to state that chronic back pain causes heart disease, but I am quick to say that severe stress from pain or other things can certainly precipitate either cardiac arrhythmias, or rupture of the intima and a coronary occlusion.”

Appellant further submitted a report dated April 15, 1996 from Dr. Growney, who opined that the employee’s cause of death was a cardiac condition but that her chronic back pain “played at least some role in her demise.”

By decision dated May 23, 1996, the Office denied appellant’s request for reconsideration on the grounds that the evidence submitted was insufficient to warrant

modification of the prior decision. In the accompanying memorandum to the Director, incorporated by reference, the Office found that the medical opinions offered in support of the claim were speculative and thus lacking probative value.

The Board finds that appellant has not established that the employee's death on October 8, 1994 was causally related to her September 7, 1982 employment injury.

Appellant has the burden of proving by the weight of the reliable, probative and substantial evidence that the employee's death was causally related to his or her employment. This burden includes the necessity of furnishing medical opinion evidence of a cause and effect relationship based upon a proper factual and medical background.<sup>1</sup> The medical evidence required to establish causal relationship is rationalized medical opinion evidence explaining how the accepted employment-related condition caused or contributed to the employee's death.<sup>2</sup> The mere showing that an employee was receiving compensation at the time of death does not establish that the employee's death was causally related to his or her employment.<sup>3</sup>

In support of his claim, appellant submitted reports from Dr. Morrison, a Board-certified internist and the employee's attending physician. In a report dated January 5, 1995, Dr. Morrison described the cause of the employee's death as an acute myocardial infarction but found that diabetes mellitus and chronic pain from her employment-related back injury were contributing factors. Dr. Morrison stated, "There is every probability that this chronic pain and inability to get adequate relief played some part in the development of her cardiovascular disease and in my opinion should be considered a contributing factor." The Board finds that this opinion is speculative in nature. Dr. Morrison did not explain how the back pain aggravated the employee's cardiovascular status or contributed to her demise. As his report does not contain medical rationale, it is of limited probative value.<sup>4</sup>

In a report dated April 11, 1996, Dr. Morrison opined that stress caused by back pain "could very well have been a major contributing factor" in the employee's myocardial infarction. Dr. Morrison noted that stress or physical exertion could precipitate a heart attack and that the employee's back pain "at least indirectly could [have] contributed to her terminal event." Dr. Morrison's conclusions, however, are couched in speculative terms and are therefore of diminished probative value.<sup>5</sup>

The record further contains a report dated April 15, 1996 from Dr. Growney, an osteopath. Dr. Growney opined that the employee's cause of death was a cardiac condition but that her chronic back pain "played at least some role in her demise." However, Dr. Growney

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<sup>1</sup> *Carolyn P. Spiewak (Paul Spiewak)*, 40 ECAB 552 (1989).

<sup>2</sup> *Edna M. Davis (Kenneth L. Davis)*, 42 ECAB 728 (1991).

<sup>3</sup> *Elinor Bacorn (David Bacorn)*, 46 ECAB 857 (1995).

<sup>4</sup> *See Lourdes Davila*, 45 ECAB 139 (1993).

<sup>5</sup> *See Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinion based upon an incomplete history or which are speculative or equivocal in character have little probative value).

does not explain, with reference to the specific facts and medical findings in this case, how the employee's back condition contributed to her death. In the absence of a fully rationalized opinion based on a complete and accurate factual and medical background establishing that the employee's death was causally related to her employment injury, the Board finds that appellant has not met his burden of proof in this case.

The decision of the Office of Workers' Compensation Programs dated May 23, 1996 is hereby affirmed.

Dated, Washington, D.C.  
August 25, 1998

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member