

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANTHONY S. TISCIONE and U.S. POSTAL SERVICE, POST OFFICE,
Providence, R.I.

Docket No. 96-559; Submitted on the Record
Issued January 20, 1998

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has established that his pulmonary sarcoidosis and recurrent asthma are causally related to factors of his federal employment.

The Board has duly reviewed the case record and finds that appellant has not met his burden of proof in this case.

On December 12, 1994 appellant, a mail handler, filed a claim alleging that his respiratory conditions of sarcoidosis and recurrent asthma were aggravated by his federal employment. The Office of Workers' Compensation Programs denied appellant's claim by decision dated October 23, 1995. Appellant submitted a number of medical reports to the record regarding his medical treatment for these conditions. The only medical evidence submitted by appellant regarding the issue of causal relationship were reports dated November 16, 1994 from Dr. David G. Kern, a Board-certified neurologist and Dr. Barry Levine, a Board-certified neurologist.

In a narrative report of November 16, 1994, Dr. Kern reported that appellant developed asthma at the age of 12 and was found to be allergic to a number of common aeroallergens including dust mites, pollen and animal dander. Subsequently, he received allergy shots for a few years, his asthma then became minimally symptomatic with medication rarely required. In late 1989 or early 1990, after approximately a year and half of employment at the employing establishment, appellant began to experience episodic shortness of breath, wheezing and cough, which began within 20 minutes after arrival at work and subsided away from work. Dr. Kern related that a 1990 evaluation by an allergist revealed a history of seasonal allergic conjunctive rhinitis during the months April-September, a family history of hay fever, the presence in appellant's home of a 20-year-old uncovered mattress, a cat, a dog and a pet gerbil. Allergy skin testing showing sustained reactions to pollen, dust mite, gerbil, cat, dog, and other allergens with no mold sensitivity detected. Dr. Kern stated that while appellant had been out of work for a year and a half and reported little in the way of symptoms and no use of medication, his chest

x-rays and pulmonary function testing revealed little change when compared to the results obtained over the last four years, which was consistent with a mild to moderate degree of restrictive lung disease without evidence of airway obstruction. Dr. Kern concluded that although appellant's history was strongly suggestive of asthma recurrence in 1990, there was little objective evidence provided to support the diagnosis. He noted appellant's resumption of respiratory symptoms in 1989-90 may well have been due to sarcoidosis, as asthma and airway hyper responsiveness appear to develop rather commonly in individuals who have developed sarcoidosis. Dr. Kern stated that nevertheless appellant's treating physicians, who were in the best position to judge his condition, concluded that his asthma had reemerged. Dr. Kern stated that clearly a host of aeroallergens in his home environment including dust mites and dander from a gerbil that entered his home at about the time of his symptom recurrence, his cat and his dog, probable aggravated his asthma and allergic rhinitis. Dr. Kern noted that appellant's history did suggest that his exposure to dust mites and vapors at the employing establishment also contributed to a worsening of his condition.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his condition was caused or adversely affected by his employment. As part of this burden he must present rationalized medical opinion evidence based on a complete factual and medical background, showing causal relation.¹

While Dr. Kern's report is generally supportive of appellant's claim, the Board finds that it is of limited probative value. The Board has long held that while the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medial certainty, nether can such opinion be speculative or equivocal.² Dr. Kern concluded his report by noting that on the basis of appellant's reported history and probable exposure at work, he believed that appellant's physician-diagnosed asthma was "probably" aggravated somewhat by both his working conditions and his domestic exposures. Dr. Kern noted that unfortunately appellant's workplace had not been evaluated and that such information would have readily clarified the relationship between his workplace exposures and his illness. As such Dr. Kern is speculating that a causal relationship between appellant's employment environment and his recurrent asthma is possible, but he does not provide a definite opinion, based upon a proper factual background that a relationship does exist. The Board notes that on February 6, 1995 the Office informed appellant that it had received test results from environmental testing performed at the employing establishment and appellant was further informed that he should obtain a comprehensive medical report which described how exposure in his federal employment contributed to his condition. The record does not indicate that appellant obtained a supplemental report from Dr. Kern further addressing the issue of causal relationship. On February 17, 1995 Dr. Kern advised that he had previously addressed the query in his previous report.

In a report dated June 18, 1995, Dr. Levine reported that appellant alleged exposure to paper dust and ink and that he had a long history of asthma dating to age 12. Dr. Levine stated

¹ *Kimper Lee*, 45 ECAB 565 (1994).

² *Philip J. Deroo*, 39 ECAB 1294 (1988).

that in early 1990 a chest x-ray revealed mediastinal and hilar adenopathy, and a paratracheal lymph node biopsy revealed noncasting granuloma and a diagnosis of sarcoidosis was made. Dr. Levine further noted that over the last five years there had been little change in the appearance of the chest x-ray, pulmonary function tests showed a persistent restrictive defect, there was a markedly reduced carbon monoxide diffusing capacity, and no evidence of airway obstruction, findings which were consistent with sarcoidosis. Dr. Levine concluded as follows:

“Sarcoidosis is an inflammatory disease involving many organs and is without known cause. Exposure to paper dust or ink has never been shown to cause sarcoidosis. The described lung changes are severe enough to cause respiratory distress and symptoms. Therefore the clinical course over the past five years including the respiratory complaints is consistent with saroidosis and the lung changes associated with this disorder. Nowhere in the record is there evidence that asthma has played a role in the claimant’s debility. The exposure described by the claimant is nonspecific and includes irritants such as paper dust and ink. These substances would not aggravate the interstitial pulmonary changes associated with sarcoidosis. As I previously pointed out sarcoidosis is unrelated to any known cause. It is not associated with either asthma or allergic rhinitis.”

This report from Dr. Levine, supports a finding that appellant’s diagnosis is sarcoidosis and that it is not causally related to appellant’s alleged factors of employment. Based upon Dr. Levine’s recommendation that appellant be referred to a pulmonologist to answer the question of causal relationship, the Office referred appellant to Dr. John A. Pella, a Board-certified pulmonary specialist, for a second opinion evaluation.

In a report dated October 2, 1995, Dr. Pella thoroughly reviewed appellant’s medical history and thereafter concluded that appellant had a history of well-documented childhood asthma, atopy and multiple allergies. He indicated that there had been no documentation or airways obstruction consistent with asthma on reactive spirometry. However, appellant had a positive methacholine inhalation challenge at the time of diagnosis of his pulmonary sarcoidosis, which indicated a hyperactive bronchial state which may be consistent with asthma, but was also well noted to exist in conjunction with pulmonary sarcoidosis. Dr. Pella concluded that sarcoidosis was idiopathic in origin and could not be related to any federal occupational factors; home allergens were well documented as related to respiratory symptomology which was predominantly rhinitis. Regarding appellant’s bronchial hyperactivity, Dr. Pella stated that this condition “with medical probability” was related to his prior asthmatic state and to the development of sarcoidosis, he added that this condition was minimally, if at all, related to appellant’s employment. The Board has held that while employment may produce symptoms revelatory of an underlying condition, it does not raise an inference of employment relation. Compensation cannot be awarded merely because the cause of a claimant’s condition cannot be determined with reasonable medical certainty. The fact that the etiology of a disease is unknown or obscure does not shift the burden of proof to the Office to disapprove an employment relationship. Neither does the absence of a known etiology for the condition relieve a claimant

of the burden of establishing a causal relationship by the weight of the evidence which includes affirmative medical opinion based on the material facts with supporting rationale.³

Dr. Pella's report clearly establishes that appellant's sarcoidosis and rhinitis are not causally related to his federal employment. Regarding appellant's bronchial hyperactivity, Dr. Pella was able to relate the cause of this condition with certainty to appellant prior asthmatic state and to his sarcoidosis. He speculated, however, that minimally, if at all, it could also be related to appellant's work. This statement does not establish the necessary causal relationship. While it is not necessary that the relationship between appellant's work and the claimed condition be "significant" compared to other factors also causally related, Dr. Pella provided no medical rationale to explain why appellant's employment would have contributed in any way to his bronchial hyperactivity. It remains appellant's burden of proof to establish causal relationship. The weight of the medical evidence does not substantiate a causal relationship between appellant's conditions and his federal employment.

The decision of the Office of Workers' Programs dated October 23, 1995 is hereby affirmed.

Dated, Washington, D.C.
January 20, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

³ *Lucrecia M. Nielson*, 42 ECAB 583 (1991).