

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBERT J. RANSAW and DEPARTMENT OF THE ARMY,  
FORT McCLELLAN, Ala.

*Docket No. 96-1357; Submitted on the Record;  
Issued March 20, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant established that he sustained an employment-related occupational disease.

The Board has duly reviewed the case record and finds that appellant did not meet his burden of proof in establishing that he sustained an employment-related occupational disease.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim<sup>2</sup> including the fact that the individual is an "employee of the United States" within the meaning of the Act,<sup>3</sup> that the claim was timely filed within the applicable time limitation period of the Act,<sup>4</sup> that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>5</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup> In a claim for an occupational disease, such as this, a claimant must submit: (1) medical evidence establishing the 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 disease; and, (3) medical evidence establishing that the employment factors were the proximate cause of the disease or, stated

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See *Daniel R. Hickman*, 34 ECAB 1220 (1983); see also 20 C.F.R. § 10.110.

<sup>3</sup> See *James A. Lynch*, 32 ECAB 216 (1980); see also 5 U.S.C. § 8101(1).

<sup>4</sup> 5 U.S.C. § 8122.

<sup>5</sup> See *Melinda C. Epperly*, 45 ECAB 196 (1993).

<sup>6</sup> See *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>7</sup>

Causal relationship is a medical issue,<sup>8</sup> and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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 on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup> Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup> Nonetheless, when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.<sup>11</sup>

The facts in this case indicate that on July 13, 1995 appellant, then a 46-year-old heavy mobile equipment repairer, filed an occupational disease claim, alleging that coming in contact with equipment returning from the Persian Gulf in 1990 to 1991 caused sleep disturbance, memory problems and fatigue. He noted that he was eligible for the Persian Gulf illness evaluation program. In an accompanying statement, appellant indicated that he repaired, cleaned, and removed paint from vehicles and equipment returned from the Persian Gulf. This included changing air filters and removing trash, sand and dead insects from the vehicles. He noted that he became ill on first contact but did not relate it to the equipment until February 1992 and since that time has had arthritis of both hands, joint, muscle and testicular pain, difficulty concentrating, fatigue, chronic bronchitis, hemoptysis, constipation, and memory problems. By letter dated September 1, 1995, the employing establishment informed the Office of Workers' Compensation Programs that appellant had not served in the Persian Gulf but came into contact with equipment that was used there.

In support of his claim, appellant submitted reports from Dr. Henry M. Born, a Board-certified family practitioner. In a February 5, 1991 report, Dr. Born diagnosed low back pain, and in a March 26, 1992 report, noted intermittent aches and pains in various joints including the low back and right shoulder. A barium enema on January 20, 1992 was normal. X-rays of both hands that day demonstrated early osteoarthritis. A June 16, 1992 treatment note<sup>12</sup> indicated a

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<sup>7</sup> *Jerry D. Osterman*, 46 ECAB \_\_\_\_ (Docket No. 93-1777, issued February 2, 1995); *Victor J. Woodhams*, *supra* note 6.

<sup>8</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>9</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, *supra* note 6.

<sup>10</sup> *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

<sup>11</sup> *Larry Warner*, 43 ECAB 1027 (1992).

<sup>12</sup> The physician's signature is illegible.

diagnosis of upper respiratory infection with hemoptysis. On July 27, 1993 Dr. Born noted that appellant had been treated for constipation on January 16, 1992, and on August 30, 1993 noted a complaint of testicular pain. A September 29, 1993 x-ray of the right elbow revealed a spur on the olecranon which was detached but not displaced. Dr. J.F. Keithan<sup>13</sup> diagnosed chip fracture. A September 20, 1994 x-ray of the cervical spine revealed degenerative disc disease at C5-6 and C6-7. An October 7, 1994 whole body scan was normal. In an undated report, Dr. Darnita A. Hill, a Board-certified family practitioner, diagnosed osteoarthritis, and by report dated December 22, 1994, Dr. Mary Altz-Smith, a Board-certified internist who practices rheumatology, diagnosed cervical osteoarthritis, persistent right inguinal hernia and joint aches.

In a March 15, 1995 report, Dr. John J. Griffin, an employing establishment physician who is Board-certified in internal medicine, completed appellant's initial evaluation for Gulf War syndrome. He noted that appellant cleaned equipment upon its return from the Persian Gulf and noted appellant's complaints and diagnosed cervical degenerative arthritis with secondary diagnoses of diffuse arthralgias, sleep disturbance, fatigue, left spermatocele, epididymitis and subjective memory loss.

By report dated March 28, 1995, O'Neal Walker, Ph.D., advised that appellant had possible cognitive defects and needed further evaluation. In a comprehensive report dated May 3, 1995, Thomas J. Boll, Ph.D., a clinical neuropsychologist, advised that appellant had neurocognitive difficulties across a broad range of functioning and moderate levels of anxiety. He recommended that appellant's work environment be changed, that he be monitored, and be reevaluated in six months.

An employing establishment memorandum dated August 8, 1995 indicated that all employees who were evaluated for Gulf War syndrome had negative findings.

By letter dated November 17, 1995, the Office informed appellant of the type evidence needed to support his claim. In response he submitted duplicates of reports already in the record, copies of test scoring performed by Dr. Walker, and a June 5, 1995 report in which Dr. Boll noted that appellant was concerned about the effects of contaminants on vehicles on which he worked, noted preexisting arthritis, and listed a diagnosis of "none." Dr. Boll checked the "yes" box indicating that appellant's concern was employment related, stating, "believes contaminants exist and affect him." He advised that appellant was not disabled.

By decision dated March 6, 1996, the Office denied the claim on the grounds that fact of injury had not been established. In the attached memorandum, the Office noted that Dr. Boll found no specific disorder, employment related or otherwise and concluded that appellant failed to submit rationalized medical evidence to establish that the claimed conditions were causally related to his employment.

In this case, while appellant established that he was exposed to equipment returning from the Persian Gulf and may suffer from various health problems, none of the medical evidence indicates that he suffers from any disability or condition caused by this exposure. He thus failed

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<sup>13</sup> Dr. Keithan's credentials are unknown.

to meet his burden of providing medical evidence substantiating the fact that an injury occurred in the performance of duty, and the Office properly denied his claim.<sup>14</sup>

The decision of the Office of Workers' Compensation Programs dated March 6, 1996 is hereby affirmed.

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

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>14</sup> See *Patrick J. Hall*, 48 ECAB \_\_\_\_ (Docket No. 95-1857, issued May 13, 1997).