

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of IRMA J. SMITH and DEPARTMENT OF THE AIR FORCE, SAN ANTONIO
AIR LOGISTICS CENTER, KELLY AIR FORCE BASE, Tex.

*Docket No. 95-2146; Submitted on the Record;
Issued May 20, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained an occupational disease in the performance of her federal employment.

The Board has duly reviewed the case record and finds that appellant has not met her burden of proof in this case. On July 1, 1994 appellant filed an occupational disease claim alleging that in December 1985 she first became aware of a disease or illness and that in August 1993 she first realized that the disease or illness was caused or aggravated by her employment. Appellant explained that as an aircraft sheetmetal apprentice, she worked with numerous chemicals, metals, solvents, fumes, dust, grease and oil and around aircraft in the performance of her federal employment. Appellant stated that she had experienced dizzy spells, frequent diarrhea, muscular aches and pain, numbness in hands and feet, nose bleeds, nausea, autoimmune disorders, cancer, respiratory problems, all of which were conditions indicative of chemical and asbestos contamination. In a supplemental statement, appellant outlined her exposure to asbestos, tetrachloethylene, metho ethyl ketone, soltrol, JP 4 and 5 fuel tanks.¹ The Office of Workers' Compensation Programs denied appellant's claim by decision dated April 6, 1995.

The Board finds that appellant has not met her burden of proof in this case.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or 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 presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or, stated differently, medical evidence establishing that the

¹ The record indicates that appellant had a previously accepted claim before the Office for a back injury.

diagnosed condition is causally related to the employment factors identified by the claimant.² The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's 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 upon 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 to the specific employment factors identified by the claimant.³

In the present case, appellant has submitted numerous medical reports detailing medical treatment over a 10-year period for multiple medical conditions. Appellant has also submitted factual statements wherein she identified the factors of employment, exposure to numerous toxins, which she believes caused her conditions. The Office has determined that the exposures appellant alleged did occur. Appellant has not, however, submitted the necessary medical evidence to establish that the employment factors caused any of her medical conditions. The only medical reports of record, which address the issue of causal relationship do not provide the necessary medical rationale to explain and medically support that the employment factors caused appellant's medical condition.

In a report dated September 11, 1993, Dr. John P. Whitecar Jr., Board-certified in internal medicine, reported that appellant had breast cancer and that there was no evidence that her condition was an "inherited condition." Dr. Whitecar did not, however, offer any opinion as to whether appellant's cancer was causally related to her employment. Dr. Whitecar's report is therefore of limited probative medical value regarding the issue of whether appellant's employment factors caused her cancer condition.

In a report dated February 10, 1995, Dr. Drew Walsh stated, that appellant presented on January 11, 1995 with the chief complaint of cough and dyspnea on exertion for approximately four months. He explained that appellant's history, physical examination and chest x-ray were nonrevealing and pulmonary function tests performed on January 12, 1995 showed no obstruction, but suggested airway reactivity by the response to bronchodilator administration. Dr. Walsh stated that additional tests had been performed, but were either normal or nonrevealing for the etiology of her symptoms, including echocardiogram UGI, repeat CXR and left rib series. He concluded that he had explained to appellant that even if he was able to diagnose her with asthma, he would not be able to connect it with her exposure to fumes at Kelly Air Force Base. Dr. Walsh explained that adults can develop asthma without such exposure and that occupational asthma is usually evident at the time of exposure. His report therefore, also does not support a finding of causal relationship between appellant's pulmonary condition and her employment.

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *Jerry D. Osterman*, 46 ECAB 500 (1995).

The Board notes that appellant has submitted a report from toxicologist James C. Garriott, Ph.D., dated April 21, 1994. Dr. Garriott linked in general terms appellant's employment exposures to her medical conditions. 5 U.S.C. § 8101(2) provides that the term "physician" includes, "surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners." The Federal Employees' Compensation Act does not include toxicologist within the definition of physicians.⁴ As Dr. Garriott is not a "physician" pursuant to the Act,⁵ his report does not constitute medical evidence and does not provide the necessary probative evidence necessary to establish appellant's claim.

Finally, appellant also submitted a number of medical articles and literature to the record. The Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship as they are of general application and are not determinative of whether the specific condition claimed was causally related to the particular employment factors involved.⁶

Appellant has not met her burden of proof as she has not submitted the necessary rationalized medical evidence to support that her medical conditions are causally related to factors of her federal employment.

The decision of the Office of Workers' Compensation Programs dated April 6, 1995 is hereby affirmed.

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

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

⁴ *Kathy Marshall*, 45 ECAB 827 (1994).

⁵ 5 U.S.C. § 8101(2).

⁶ *William C. Bush*, 40 ECAB 1064 (1989).