

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD D. BERARDO and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Pittsburgh, Pa.

*Docket No. 96-2072; Submitted on the Record;
Issued May 22, 1998*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof to establish that he sustained an occupational disease causally related to factors of his federal employment.

On January 30, 1996 appellant, then a 53-year-old engineering technician, filed a notice of occupational disease and claim for compensation, alleging that he suffered pleural thickening as a result of asbestos exposure from his federal employment. Appellant stated that he became aware of the condition and that it was related to his employment on November 22, 1993. Appellant continued to work.

Dr. Richard H. Crain, a Board-certified radiologist, interpreted x-rays of appellant taken on February 10, November 20 and November 22, 1995. He found that there was a slight pleural thickening in the lateral margins of both the middle and lower lung fields and that the possibility of previous exposure to asbestos dust could be considered.

The Office of Workers' Compensation Programs subsequently referred appellant, along with a statement of accepted facts, to Dr. Mitchell Patti, a Board-certified internist, for evaluation.

Pursuant to the Office's request, appellant submitted a detailed list of the incidents of his asbestos exposure from 1980 through 1996.

On April 4, 1996 Dr. Patti reviewed appellants work history, medical history, and symptomatology. Dr. Patti also performed a physical examination and conducted a chest x-ray, pulmonary function study, and arterial blood gas study. He noted a 16-year history of asbestos exposure because appellant worked in an environment where the substance was removed. Dr. Patti further noted a restrictive physiology on appellant's pulmonary function tests and pleural thickening by x-ray. He concluded that appellant's "pleural thickening may be on the basis of obesity or may be on the basis of asbestos exposure." Dr. Patti also stated that he found

no evidence of asbestos-related calcified pleural plaque and that appellant interstitial pattern on his chest x-ray was minimally abnormal. He indicated that the restrictive physiology appellant demonstrated on his pulmonary function test could be due to obesity or interstitial lung disease. Finally, Dr. Patti indicated that he would perform further tests to rule out early asbestosis.

On April 26, 1996 Dr. Patti conducted further tests and stated that appellant's computerized axial tomography was not consistent with asbestos-related lung disease. He concluded that he did not see evidence of interstitial lung disease suggestive of asbestosis, and that there was no evidence of pleural plaque. Finally, he indicated that appellant's radiographic changes could be related to tuberculosis.

The Office medical adviser subsequently reviewed Dr. Patti's opinion and found no asbestos-related disease.

By decision dated June 13, 1996, the Office denied appellant's claim because the evidence of record failed to support a causal relationship between his alleged condition and factors of his federal employment.

The Board finds that appellant did not meet his burden of proof to establish that he sustained an occupational disease causally related to factors of his federal employment.

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 diagnosed condition is causally related to the employment factors identified by the claimant.¹ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.² Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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,³ must be one of reasonable medical certainty,⁴ and must be supported by medical

¹ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² The Board held that, in certain cases, where the causal connection is obvious, expert testimony may not be necessary; see *Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not one of obvious causal connection.

³ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁴ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

In this case, Dr. Patti, a Board-certified internist, provided the only medical opinion evidence addressing whether appellant's pleural thickening was related to asbestos exposure from his federal employment. Dr. Patti concluded, based on his review of appellant's computerized axial tomography, that there was no evidence of interstitial lung disease suggestive of asbestosis. Consequently, appellant failed to provide any rationalized medical opinion establishing a causal relationship between his claimed medical condition and factors of his employment. He, therefore, failed to meet his burden of proof.

The decision of the Office of Workers' Compensation Programs dated June 13, 1996 is affirmed.

Dated, Washington, D.C.
May 22, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁵ See *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).