

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANET E. SHEETS and U.S. POSTAL SERVICE,
POST OFFICE, Columbus, OH

*Docket No. 98-131; Submitted on the Record;
Issued August 10, 1999*

DECISION and ORDER

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

The issue is whether appellant has any continuing disability or medical residuals causally related to her accepted employment injury on or after March 13, 1995.

The Board has duly reviewed the case on appeal and finds that appellant had no continuing disability or medical residuals causally related to her accepted employment injury on or after March 13, 1995.

On August 10, 1995 appellant, then a 57-year-old bulk mail technician, filed a claim for occupational disease alleging that she had been aware since March 13, 1995 that she had chronic bronchitis and that from July 26, 1995 she was aware that it had been caused or aggravated by her employment. On November 15, 1995 the Office of Workers' Compensation Programs denied appellant's claim on the grounds that she failed to establish fact of injury. In support of her request for a review of the written record, appellant submitted a December 12, 1995 medical report from Dr. Robert P. Zaino, appellant's treating physician and Board-certified in family practice. In that report he stated that appellant had reactive airway disease caused by dust in her limited-duty area, but that she was "doing well with medical treatment and removal ... from ... the docks." He added that "to the best of my medical ability that there was a causal relationship between the dust ... on the docks producing (appellant's) symptoms" and that there "was a time element that was consistent with this causal relationship," but that appellant "has done well since then as she is doing office work at this point." Dr. Zaino noted that appellant should refrain from excessive dusty work areas.

In a decision dated April 17, 1996, the hearing representative remanded appellant's case to the Office for referral to a second opinion specialist to determine whether appellant had a medical condition caused by her employment and, if so, whether the condition was disabling and whether it had ended or when it would be expected to end.

In a medical report dated August 26, 1996, Dr. Thomas Boes, the second opinion physician and Board-certified in internal medicine, stated that, upon examination, appellant's ear, nose, throat and neck were normal; that her chest examination was clear and that no wheezing, rhonci or crackles were appreciated. He noted that a baseline spirometry revealed a mild obstructive impairment, but that a post bronchodilator spirometry test revealed improvement "consistent with reactive obstructive airways disease and consistent with a diagnosis of asthma." Lung volumes were also noted as essentially normal. Dr. Boes then stated that appellant's history and objective findings revealed "reversible obstructive airways disorder, *i.e.*, asthma." He noted that appellant's condition "appears stable based on the reported near complete resolution of symptoms and the chest examination. There is no clinical evidence to suggest acute bronchitis/bronchospasm and/or a respiratory infection. There is no clinical evidence of an interstitial lung disorder, *i.e.*, hypersensitivity pneumonitis and/or pneumoconiosis. This patient's pulmonary condition (asthma) should be controlled with the appropriate use of inhaled bronchodilator and avoidance of volatile fumes" and that "the prognosis is good." Dr. Boes further noted that appellant's symptoms and test results suggest that the workplace aggravated a preexisting asthma condition.

In a duty status report dated October 15, 1996, Dr. Zaino stated that appellant was partially disabled from March 13, 1995 to an estimated January 1, 1998 due to asthma/allergy. In appellant's treating physician's report dated the same day he stated that appellant aggravated her asthma on March 13, 1995 as a result of her employment.

On January 22, 1997 the Office, in a decision, denied appellant's claim that she had continuing residuals from her March 13, 1995 accepted injury.¹

On July 17, 1997 appellant requested reconsideration and submitted an April 17, 1997 medical report from Dr. Zaino. In that report, he stated that when appellant was home from work for unrelated reasons, appellant related "complete resolution of any ill symptoms." Dr. Zaino also noted that appellant was concerned "that her complete disability be realized" and that her inability to work as a result of her airway disease was worsened by "environmental dust and fumes of work."

On August 25, 1997 the Office denied appellant's request for reconsideration on the grounds that the evidence submitted failed to establish that appellant sustained residuals of her work-related asthma aggravation.

The Board has duly reviewed the case record and affirms the decision of the Office which found that appellant does not have residuals of her work-related injury.

When an employee claims a continuing disability causally related to an accepted employment injury, he or she has the burden of establishing by the weight of the reliable, probative and substantial medical evidence that the claimed recurrence of disability is causally related to the accepted injury. As part of this burden, appellant must submit rationalized medical

¹ In its January 22, 1997 decision, the Office accepted that appellant had aggravated her preexisting asthma as a result of exposure which occurred on March 13, 1995.

evidence based on a complete and accurate factual and medical background showing causal relationship.² 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 certainty⁴ 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.⁵ An award of compensation may not be made on the basis of surmise, conjecture, or speculation or on appellant's unsupported belief of causal relation.⁶

As applied to this case, in order to establish causal relationship, appellant must submit sufficient rationalized medical evidence explaining how her medical condition was causally related to her accepted injury.

In a December 12, 1995 medical report from Dr. Zaino, he noted that appellant had reactive airway disease caused by dust in the vicinity of the truck docks, but that she was doing well with medical treatment after she left the docks and was assigned to office duty. This report is insufficient to establish that appellant's condition is causally related to her work-related asthma aggravation as Dr. Zaino noted that appellant was doing well and, in essence, had no medical condition, since the time she was assigned to office work. In medical reports dated October 15, 1996, he stated that appellant was partially disabled from March 13, 1995 due to her work-related asthma/allergy. However neither of these reports provided a rationalized medical opinion establishing a causal relationship between appellant's condition and her work-related aggravation and thus are insufficient to establish causal relationship. In an April 17, 1997 medical report, Dr. Zaino noted that appellant related a complete resolution of any ill symptoms. This report is of no probative value to establish appellant's claim of causal relationship in that he noted that appellant herself related to him that she was nonsymptomatic.⁷ Further, Dr. Boes stated that upon examination, appellant was essentially normal. He added that appellant's mild obstructive impairment improved with use of a bronchodilator and that appellant's condition appeared normal "based on the reported near complete resolution of symptoms and the chest examination." Dr. Boes also noted no clinical evidence to support acute bronchitis/bronchospasm, a respiratory infection or interstitial lung disorder.

² See *Armando Colon*, 41 ECAB 563 (1990).

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

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

⁵ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁶ *Ausberto Guzman*, 25 ECAB 362 (1974).

⁷ Medical reports from Drs. Zaino and Leslie M. Green, dated December 24 and 31, 1996, respectively, do not constitute rationalized medical opinion inasmuch as the reports merely place appellant in an "off-work" status due to asthma. Further, appellant's dust sample exhibit does not support her claim that she continued to have residuals based on her March 13, 1995 work-related condition inasmuch as her burden was to produce medical evidence in support of her claim. The Board also notes that appellant submitted magazine articles on the issue of her medical condition but these provide no probative value in establishing her claim. *Dominic E. Coppo*, 44 ECAB 484, (1993); *William C. Bush*, 40 ECAB 1064, 1075 (1989).

Consequently, appellant has not established that her medical condition on or after March 13, 1995 was causally related to her accepted injury of aggravation of asthma, as she submitted insufficient medical evidence to support the alleged causal relationship.

The decisions of the Office of Workers' Compensation Programs dated August 25 and January 22, 1997 are hereby affirmed.

Dated, Washington, D.C.
August 10, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member