

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SHIRLEY E. THOMPSON and U.S. POSTAL SERVICE,  
POST OFFICE, Dallas, Tex.

*Docket No. 97-1083; Submitted on the Record;  
Issued January 21, 1999*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

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

On July 6, 1995 appellant, then a 50-year-old supervisor of distribution operations, filed a notice of occupational disease, alleging that she suffered varicose veins as a result of her federal employment. Appellant stated that she became aware of this problem and that the problem was related to her federal employment on July 5, 1995. Appellant did not stop working.

On September 18, 1995 Dr. E.J. Mason, a Board-certified surgeon, treated appellant for pain and swelling in both legs, feet and ankles. He diagnosed swollen feet and legs with tenderness of the calves and skin desensitivity. On October 10, 1995 Dr. Mason diagnosed edema of the lower extremities of undetermined origin. He further stated that x-ray examinations and a venogram did not reveal any evidence of varicose veins.

By decision dated November 8, 1995, the Office of Workers' Compensation Programs rejected appellant's claim for the reason that fact of injury was not established. In an accompanying memorandum, the Office indicated that appellant failed to submit sufficient evidence establishing that she suffered varicose veins due to her federal employment.

Appellant subsequently requested reconsideration. In support, appellant submitted a November 17, 1995 report from Dr. Ronnie D. Shade, a Board-certified orthopedic surgeon. Dr. Shade indicated that appellant complained of bilateral leg pain and swelling. He noted appellant's previous history, including her history of diabetes, and conducted a physical examination. Dr. Shade diagnosed suspected vascular insufficiency.

Appellant also submitted a December 15, 1995 report from Dr. James L. Sweatt, III, a Board-certified surgeon and thoracic surgeon. Dr. Sweatt noted that appellant complained of multiple sites of pain, including her legs with swelling. He indicated that appellant had diabetes

which was difficult to control and speculated whether this condition was related to her current problems. Dr. Sweatt concluded that he did not believe appellant's pain was caused by peripheral vascular or venous disease.

On January 15, 1996 Dr. Jack D. Vine, a Board-certified internist, examined appellant and diagnosed arthralgias and myalgias of unknown origin with a history of diabetes mellitus. He noted that there were also complaints of intermittent generalized swelling without any obvious swelling at this time after beginning hormonal therapy. Dr. Vine stated that the differential diagnosis could include inflammatory arthropathy, but that he did not find much evidence to support this. He also stated that appellant may have hyperthyroidism.

On February 26, 1996 Dr. David Rosenstock, a Board-certified rheumatologist and internist, examined appellant and diagnosed symmetrical polyarthropathy, skin rash, dermatitis, and peripheral neuropathy.

Appellant also submitted a March 12, 1996 report from Dr. Mohammad Zhalid, documenting a nerve conduction study which revealed a neuropathy which could have been related to an underlying connective tissue disorder.

On March 16, 1996 Dr. Rosenstock also diagnosed diabetes mellitus, neuropathy, and possible connective tissue disorder.

By decision dated May 1, 1996, the Office reviewed the merits of the case and found that the evidence submitted was not sufficient to warrant modification of the November 8, 1995 decision. In an accompany memorandum, the Office indicated that the record failed to contain any rationalized medical opinion attributing appellant's alleged conditions to her employment.

Appellant requested reconsideration on July 15, 1996.

In support, appellant submitted a June 6, 1996 report from Dr. Rosenstock diagnosing a connective tissue disorder. He indicated that the disorder was aggravated by the types of activities appellant did at work. On July 12, 1996 Dr. Rosenstock diagnosed polyarthropathy associated to connective tissue disease. He checked "yes" to indicate that this condition was caused or aggravated by an employment activity, specifically appellant working full shifts on concrete floors.

By decision dated August 14, 1996, the Office again reviewed the merits of the case and found that the evidence submitted in support of the application was not sufficient to warrant modification of the prior decision. In an accompanying memorandum, the Office indicated that the subsequently submitted reports of Dr. Rosenstock were entitled to little weight as they failed to contain medical rationale for the physician's stated conclusions.

On September 25, 1996 appellant again requested reconsideration.

In support, appellant submitted an April 17, 1996 report from Dr. Shade diagnosing a lumbar disc protrusion, L4-5. She also submitted a July 1, 1996 ophthalmology report form Dr. Michael S. Harris, in which a diagnosis was not made. Appellant also submitted progress

notes from Dr. Rosenstock. On March 18, 1996 Dr. Rosenstock diagnosed diabetes mellitus, neuropathy and a possible connective tissue disorder. On April 15, 1996 he added dermatitis, polyarthralgias and a possible polyneuropathy to these diagnoses. On May 13, 1996 Dr. Rosenstock diagnosed undifferentiated connective tissue disorder possible, diabetes mellitus and low back pain. On May 31, 1996 Dr. Rosenstock diagnosed connective tissue disorder manifested by dermatitis rash, goiter and polyarthropathy.

On July 22, 1996 he diagnosed connective tissue disorder, dermatitis and probably autoimmune. On September 10, 1996 Dr. Rosenstock diagnosed undifferentiated connective tissue disease. He stated that appellant's job activity worsened the condition.

By decision dated October 15, 1996, the Office reviewed the case on its merits and found that the evidence was insufficient to warrant modification of the prior decision. In an accompanying memorandum, the Office indicated that appellant failed to submit any rationalized medical opinion evidence explaining how appellant's employment activities caused the claimed condition.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an occupational disease causally related to factors of her 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.<sup>1</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>2</sup> 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,<sup>3</sup> must be one of reasonable medical certainty,<sup>4</sup> 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>5</sup>

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<sup>1</sup> See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>2</sup> 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.

<sup>3</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>4</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>5</sup> See *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31

In this case, Dr. Rosenstock, a Board-certified rheumatologist and internist, provided the only medical reports addressing whether appellant suffered from any condition related to her federal employment. On June 6, 1996 Dr. Rosenstock diagnosed connective tissue disorder and stated that it was “aggravated by the types of activities appellant did at work.” On July 12, 1996 he checked “yes” to indicate that the disorder was caused or aggravated by an employment activity, specifically appellant working full shifts on concrete floors. Finally, on September 10, 1996 he stated that appellant’s job worsened her condition. Because Dr. Rosenstock failed to provide any medical explanation for his conclusion that appellant suffered a connective tissue disorder related to factors of her employment, his opinion is entitled to little weight.<sup>6</sup> Accordingly, because appellant failed to provide any rationalized medical opinion establishing a causal relationship between her claimed medical condition and factors of her employment, she failed to meet her burden of proof.

The decisions of the Office of Workers’ Compensation Programs dated October 15, August 14 and May 1, 1996 are affirmed.

Dated, Washington, D.C.  
January 21, 1999

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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ECAB 426, 430 (1980).

<sup>6</sup> *Id.*