

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KONG M. NG and DEPARTMENT OF HEALTH & HUMAN SERVICES,
SOCIAL SECURITY ADMINISTRATION, San Francisco, Calif.

*Docket No. 98-202; Submitted on the Record;
Issued July 14, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
BRADLEY T. KNOTT

The issue is whether appellant has established that he has any disability causally related to his exposure to fumes and poor air quality at work.

On June 13, 1996 appellant, then a 56-year-old claims representative, filed a claim for symptoms of sick building syndrome. He stated that bad air quality and lack of air circulation had caused his condition. In an accompanying statement appellant indicated that since September 1991 he had experienced intermittently the symptoms of sick building syndrome. Appellant reported that from time to time he had fatigue, headaches, irregular heartbeat, dizziness, a burning sensation in his head and face, coughing and difficulty in concentration. He stated that more recently the symptoms had become progressively worse in frequency, duration and magnitude. In an October 16, 1996 decision, the Office of Workers' Compensation Programs rejected appellant's claim on the grounds that he had not established fact of injury. In a July 15, 1997 decision, the Office denied appellant's request for reconsideration on the grounds that the evidence submitted in support of the request was cumulative and therefore insufficient to warrant review of its prior decision.

The Board finds that appellant has not established that his condition is causally related to exposure to fumes and poor air quality at the employing establishment.

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;¹ (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;² and (3) medical evidence establishing that

¹ See *Ronald K. White*, 37 ECAB 176, 178 (1985).

² See *Walter D. Morehead*, 31 ECAB 188, 194 (1979).

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.³ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. 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,⁴ must be one of reasonable medical certainty,⁵ 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.⁶

Appellant submitted two air surveys of the employing establishment, one done in 1993 and one done in 1996. Both surveys indicated that the building in which appellant worked had problems in air circulation and carbon dioxide levels above the limits set by the General Services Administration. Appellant therefore identified the existence of employment factors which he alleged caused his condition. However, appellant did not provide medical evidence to establish that these employment factors specifically caused his condition. The only medical evidence of record were medical notes from Dr. Patricia Tsang, a family practitioner, which excused appellant from work for specific days. Appellant did not submit any detailed medical report which gave a detailed history of his condition, described his symptoms, reported the results of tests, gave a diagnosis of appellant's condition and provided a rationalized opinion on whether appellant's condition was related to the factors of his employment, namely the air quality of the employing establishment. Appellant therefore has not met his burden of proof.

³ See generally *Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ See *William E. Enright*, 31 ECAB 426, 430 (1980).

The decisions of the Office of Workers' Compensation Programs, dated July 15, 1997 and October 16, 1996, are hereby affirmed.

Dated, Washington, D.C.
July 14, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Bradley T. Knott
Alternate Member