

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MONA L. DOGANS and DEPARTMENT OF HOUSING &  
URBAN DEVELOPMENT, New Orleans, LA

*Docket No. 99-900; Submitted on the Record;  
Issued August 11, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a sinus condition in the performance of duty.

On September 12, 1995 appellant, a 43-year-old underwriter, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that her sinus condition, including earache and ringing in her ears, was employment related. She stated that her sinus problems were caused by poor ventilation and a reaction to chemicals used in her work space. On the reverse of the form, appellant's supervisor indicated that appellant stopped working on September 12, 1995, but did not indicate when appellant returned to work.

In an October 27, 1997 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in her claim was not sufficient to determine whether appellant was eligible for benefits under the Federal Employees' Compensation Act. The Office advised appellant of the additional medical and factual evidence needed to support her claim.

By decision dated December 5, 1997, the Office denied appellant's claim. The Office found that appellant failed to submit sufficient medical evidence.

By letter dated December 17, 1997, appellant filed a timely request for an oral hearing before an Office hearing representative.

On September 21, 1998 a hearing was held before a hearing representative, at which time appellant testified on her own behalf. Appellant stated that she missed three days of work due to the claimed injury. The hearing representative advised appellant of the type of medical evidence needed to establish her claim. At that time, a medical report dated September 15, 1995 from Dr. Michael Hagmann, a Board-certified otolaryngologist, was submitted. Dr. Hagmann checked a box "yes" on the form to indicate that appellant's sinusitis and deviated septum were employment related. Portions of the report were not legible.

Subsequently, the Office received an undated report from Dr. Hagmann, who noted treating appellant for chronic allergy, nasal obstruction and sinusitis. He advised appellant to avoid closed and moldy areas.

By decision dated December 17, 1998, the Office hearing representative affirmed the Office's December 5, 1997 decision. The Office hearing representative found that appellant did not meet her burden of proof in establishing that she sustained an injury in the performance of duty.

The Board finds that appellant has not met her burden of proof in establishing that she sustained a sinus condition in the performance of duty.

An employee seeking benefits under the Act<sup>1</sup> has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitations period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are essential elements of each an every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup>

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>5</sup>

In the instant case, it is not disputed that appellant is an employee, or that she had a sinus condition. However, there is insufficient medical evidence to establish that the condition is due to factors of her employment. While appellant did submit reports from Dr. Hagmann, these reports are insufficient. The undated report, submitted after the hearing, did not address the cause of appellant's condition. Although Dr. Hagmann's September 15, 1995 report supported

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Elaine Pendleton*, *supra* note 2.

<sup>5</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

causal relationship with a checkmark, the Board has held that a checkmark in support of causal relationship is insufficient to establish a claim in the absence of medical rationale explaining the basis of the doctor's decision.<sup>6</sup> No medical rationale supporting his causal relationship opinion is contained in the report.

As noted above, part of appellant's burden of proof includes the submission of medical evidence establishing that the claimed condition is causally related to employment factors. As appellant has not submitted such evidence, she has not met her burden of proof in establishing her claim.

The decision of the Office of Workers' Compensation Programs dated December 17, 1998 is hereby affirmed.

Dated, Washington, D.C.  
August 11, 2000

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>6</sup> *Alberta S. Williamson*, 47 ECAB 569 (1996).