

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILSON HALL and DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, Tallahassee, FL

*Docket No. 99-1932; Submitted on the Record;
Issued August 9, 2000*

DECISION and ORDER

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

The issue is whether appellant met his burden of proof to establish that he sustained a cerebrovascular accident in the performance of duty on August 5, 1991.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a cerebrovascular accident in the performance of duty on August 5, 1991.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing 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 limitation 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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship 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, must be one of reasonable medical certainty, 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.⁴

On October 20, 1995 appellant, then a 59-year-old heavy equipment operator, filed an occupational disease claim alleging that he sustained a cerebrovascular accident on August 5, 1991 due to exposure to extreme heat in his job.⁵ Appellant noted that he was exposed to such heat for at least a month prior to August 5, 1991. By decision dated June 3, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that he did not submit sufficient medical evidence in support thereof. By decision dated and finalized September 3, 1997 and decision dated May 26, 1998, the Office affirmed its June 3, 1996 decision.

The Board finds that appellant did not submit sufficient medical evidence to establish that he sustained a cerebrovascular accident in the performance of duty on August 5, 1991. The record contains medical records regarding appellant's treatment shortly after the August 5, 1991 incident. In these reports, appellant's attending physicians diagnosed hypertension and right hemiparesis secondary to a lacunar infarction. These reports, however, are of limited probative value on the relevant issue of the present case in that they do not contain an opinion on the cause of appellant's condition.⁶

Appellant also submitted a February 12, 1998 report of Dr. Fred Q. Vroom, an attending Board-certified neurologist. In his report, Dr. Vroom indicated that appellant sustained a pure motor stroke, which was one of the most common types of strokes and which was most commonly caused by hypertension. He stated:

"The evidence for him having heat stroke is poorly documented and, in my opinion, is unlikely. On the other hand, it is possible that the heat, dehydration and general strain on his situation caused a hypercoagulable state which contributed to him having a stroke between the afternoon of August 5, 1991 and 0046 hours on August 6, 1991. If I had to put a percentage on the possibility that this occurred, with the facts available, I would put the possibility of heat contributing as a one percent chance."

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ Appellant stopped work on August 5, 1991 and did not return.

⁶ *See Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

The submission of this report is not sufficient to establish appellant's claim in that the report contains an opinion indicating it was extremely unlikely that heat at work contributed to appellant's claimed condition. The report is speculative in nature with regard to the relevant issue of the present case and, therefore, is of limited probative value.⁷

The decision of the Office of Workers' Compensation Programs dated May 26, 1998 is affirmed.

Dated, Washington, D.C.
August 9, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁷ See *Jennifer Beville*, 33 ECAB 1970, 1973 (1982); *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (finding that an opinion which is speculative in nature is of limited probative value on the issue of causal relationship).