

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of ALICIA Y. JOHNSON and U.S. POSTAL SERVICE, SACRAMENTO  
PROCESSING & DISTRIBUTION CENTER, Sacramento, CA

*Docket No. 00-127; Submitted on the Record;  
Issued November 1, 2000*

---

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant met her burden of proof to establish that she sustained acute sinusitis and asthma due to employment factors.

On June 4, 1998 appellant, then a 28-year-old clerk, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she sustained acute sinusitis and asthma as a result of her federal employment. In support of her claim, appellant submitted a medical report dated May 7, 1998 by Dr. John Hosoume, a Board-certified internist, wherein he stated that appellant was under his care for recurrent acute sinusitis, allergic sinusitis and asthma. Regarding causation, he stated:

“In my opinion the allergic rhinitis and sinusitis, acute sinusitis and asthma are aggravated by working in a dusty, dirty or smoke-filled environment. This type of environment contains a high density of allergens which trigger and exacerbate the allergic response and thus aggravate the symptoms.”

The employing establishment controverted the claim and submitted in support thereof, dust monitoring tests that were taken at appellant's workplace that showed that there were no hazardous levels of dust in the facility.

By letter dated August 7, 1998, the Office of Workers' Compensation Programs requested that appellant submit further information in support of her claim. The Office requested that appellant submit, *inter alia*, a detailed description of her employment-related exposure which she believed caused her illness, with details as to what harmful substance she was exposed and how often. She was also requested to send the Office a description of her job activities that she believed caused the alleged illness. No reply was received.

By decision dated October 6, 1998, the Office denied appellant's claim, finding that appellant had not met the requirements for establishing that she sustained an injury as alleged.

The Board finds that appellant did not meet her burden of proof to establish that she sustained acute sinusitis or asthma due to employment factors.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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.<sup>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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.

In the present case, appellant failed to meet the second requirement, *i.e.*, submission of a factual statement identifying employment factors alleged to have caused or contributed to her disease, despite the Office's request that she do so. Therefore, she has not met the requirement that she establish that she sustained an injury as alleged. As appellant has not established that she was exposed to employment factors that caused her illness, it is not necessary to address the medical evidence.

---

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Thomas L. Hogan*, 47 ECAB 323, 328 (1996).

The decision of the Office of Workers' Compensation Programs dated October 6, 1998 is affirmed.<sup>4</sup>

Dated, Washington, DC  
November 1, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Valerie D. Evans-Harrell  
Alternate Member

---

<sup>4</sup> After the issuance of the October 6, 1998 decision, appellant attempted to submit additional evidence in support of the claim. The Board's review is limited to the evidence that was before the Office at the time of its final decision. The Board therefore cannot consider this evidence. 20 C.F.R. § 501.2(c).