

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHERI LYNN LANGUS and DEPARTMENT OF THE AIR FORCE,
NEVADA AIR NATIONAL GUARD, Reno, NV

*Docket No. 00-109; Submitted on the Record;
Issued September 27, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, PRISCILLA ANNE SCHWAB,
VALERIE D. EVANS-HARRELL

The issue is whether appellant contracted a pulmonary condition in the performance of duty causally related to factors of her federal employment.

On February 4, 1999 appellant, then a 32-year-old secretary, filed an occupational disease claim, alleging that she had inhaled silica in her lungs during "the front office construction from December 1995 to May 1996."¹ Appellant stated that she first became aware of her condition and realized that it was caused or aggravated by her employment on December 9, 1998.

By letter dated May 22, 1999, the Office of Workers' Compensation Programs informed appellant that the submitted evidence was insufficient to determine her entitlement for benefits because "the initial evidence of file did not support that you actually experienced the claimed employment factor," and that "did not establish that a condition [had] been diagnosed in connection" with the claimed incident. The Office requested that appellant provide a statement describing the development of her condition and any exposure to irritants outside of her employment, any previous pulmonary conditions and all known allergies. The Office also requested that her doctor submit a rationalized medical opinion regarding the cause of her condition.

In response, appellant submitted a February 25, 1999 duty status report from Dr. George Sieffert, a Board-certified surgeon, who stated that appellant had a lung condition but that she could perform her regular full-time position without restriction.

By decision dated April 28, 1999, the Office denied appellant's claim on the grounds that the evidence of record failed to establish that the event occurred as appellant alleged and that the

¹ Appellant stated that dust and debris from the construction project circulated through the ventilation system which caused her to continuously inhale "the forced air and debris."

medical report failed to provide a diagnosis or an explanation regarding the causal relationship between her lung condition and her employment.

The Board finds that appellant has not met her burden of proof in establishing that she contracted a pulmonary condition in the performance of duty causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act² 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 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.³ These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

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 a 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 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 claimant.⁴

The medical evidence required to establish causation, 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, 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 claimant.⁵

In this case, the Office denied appellant's claim on the grounds that appellant failed to submit a rationalized medical opinion to establish the causal relationship between her alleged lung condition and factors of her federal employment. Although appellant relies on a February 25, 1999 report from Dr. Sieffert, the Board notes that the physician did not provide a clear diagnosis of appellant's lung condition and in fact noted no diagnosis, and released her to

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

⁵ *Id.*

return to her regular work without restrictions. His report, therefore, does not constitute probative medical evidence as it is devoid of a medical and work history, findings on physical examination, a definite diagnosis, and a rationalized opinion on causation.

In the absence of a rationalized medical opinion establishing either that appellant's alleged lung condition was causally related to or aggravated by factors of her federal employment, the Office properly denied compensation.

The decision of the Office of Workers' Compensation Programs dated April 28, 1999 is affirmed.⁶

Dated, Washington, DC
September 27, 2000

Michael J. Walsh
Chairman

Priscilla Anne Schwab
Alternate Member

Valerie D. Evans-Harrell
Alternate Member

⁶ The Board notes that subsequent to the Office's April 28, 1999 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 37 n. 2 (1952). Moreover, the record contains an August 5, 1999 Office Branch of Hearings and Review's denial of a request for a written review of the record by an Office hearing representative as untimely filed. However, as appellant is not appealing from this decision, the Board has not reviewed it.