

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALFRED CAPERS and DEPARTMENT OF THE NAVY, MILITARY
SEALIFT COMMAND FLOAT PERSONNAL MANAGEMENT CENTER,
Virginia Beach, VA

*Docket No. 00-1509; Submitted on the Record;
Issued April 30, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained cervical joint disease and chronic obstructive pulmonary disease in the performance of duty.

On November 24, 1999 appellant, then a 56-year-old cook/baker, filed notice of occupational disease and claim for compensation, Form CA-2, alleging that he developed pneumonia three times from October 1998 to February 1999. He also alleged that his doctor found other problems that were defined in his report. On the reverse of the form, appellant's supervisor noted that appellant stopped working on May 6, 1999 and had not returned.

Accompanying his claim, appellant submitted an attending physician's report, dated November 24, 1999, signed by Dr. John Brooks, Jr., an internist, who diagnosed severe spinal cord and neural proximal stenosis and chronic obstructive pulmonary disease. Dr. Brooks noted that appellant was totally disabled from June 23, 1999 to the present time. Finally, he noted that he was uncertain whether appellant's condition was caused or aggravated by factors of appellant's employment.

By memorandum dated August 4, 1999, an employing establishment medical officer deemed appellant to be permanently not fit for duty.

In a January 7, 2000 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in his 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 his claim. On that date, the Office also sent a letter to the employing establishment, requesting additional information regarding appellant's duties. The employing establishment's response to the Office's request was received January 27, 2000.

By decision dated February 8, 2000, the Office denied appellant's claim. The Office found that the medical evidence was insufficient to establish that appellant's cervical condition and pulmonary disease were caused by employment factors.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a cervical condition and pulmonary disease in the performance of duty.

An employee seeking benefits under the Act 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 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.¹ These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

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 claimant.

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 of 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.³

In the instant case, Dr. Brooks noted that appellant was totally disabled due to severe spinal cord and neural proximal stenosis and chronic obstructive pulmonary disease, though he noted that he was uncertain whether appellant's condition was caused by appellant's employment condition.

¹ *Elaine Pendleton*, 40 ECAB 1143 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *Id.*

Additionally, the employing establishment medical officer also noted that appellant was permanently not fit for duty, due to his physical condition, though he did not offer an opinion regarding a causal relationship.

Appellant has not submitted any rationalized medical evidence unequivocally attributing his diagnosed conditions to factors of his employment. As noted above, part of appellant's burden of proof includes the submission of rationalized medical evidence establishing that the claimed condition was causally related to his employment factors. As appellant has failed to submit reasoned medical evidence attributing his cervical condition and pulmonary disease to his federal employment, the Office properly denied his claim.

The decision of the Office of Workers' Compensation Programs dated February 8, 2000 is hereby affirmed.

Dated, Washington, DC
April 30, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member