

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LARRY J. BOYD and DEPARTMENT OF THE AIR FORCE,
TRAVIS AIR FORCE BASE, CA

*Docket No. 99-1990; Submitted on the Record;
Issued August 13, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a pulmonary or other medical condition causally related to exposure to jet fuels during federal employment.

On September 24, 1997 appellant, then a 59-year-old electronic integrated systems mechanic, filed a claim alleging that his pulmonary condition was causally related to his federal employment. He also noted thyroid deficiency and memory loss on the claim form. Appellant stated that he was exposed to several types of organic solvents and jet fuel.

In a decision dated March 5, 1998, the Office of Workers' Compensation Programs denied the claim on the grounds that the evidence was insufficient to establish a causal relationship between jet fuel exposure and appellant's medical condition. By decision dated March 19, 1999, an Office hearing representative affirmed the prior decision.

The Board finds that appellant has not met his burden of proof to establish that his condition was causally related to his federal employment.

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.¹

¹ Victor J. Woodhams, 41 ECAB 345 (1989).

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and his federal employment.² Neither the fact that the condition became manifested during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.³

In a report dated October 17, 1997, Dr. David C. Budson, a specialist in pulmonary medicine, diagnosed idiopathic pulmonary fibrosis. He stated that, from the occupational history provided by appellant, "I do not have any reason to suspect that [appellant's] lung disease is occupationally related." Dr. Budson referred appellant to Dr. Susan D. Lambert, a specialist in occupational medicine. In a report dated June 4, 1998, Dr. Lambert reviewed appellant's history and medical literature regarding exposure to jet fuels. She concluded:

"In summary, given my review of the case and given my review of the literature, and taking into consideration my correspondence with the Centers for Disease Control and Prevention in Atlanta, Georgia, I cannot support a causal link between [appellant's] interstitial pulmonary fibrosis and his exposure to jet fuels. There is a possibility of such an association based on one study in *Environmental Research* by Knut Skyberg. However, this is one study and unfortunately, a statistically inadequate one at that. This one study raises the possibility of a causal relationship between jet fuels and interstitial pulmonary fibrosis, but it does not support a high or even reasonable probability of such an association."

The reports of Drs. Budson and Lambert do not support a causal relationship between appellant's lung condition and exposure to chemicals during his federal employment. Dr. Lambert noted the possibility of causal relationship, but found that it rested on a single, statistically inadequate study.

Appellant also submitted reports from Dr. Mohammed A. Al-Bayati, a veterinarian with a Ph.D. in toxicology. Section 8101(2) of the Federal Employees' Compensation Act provides that a physician includes, "surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law."⁴ The Act does not include toxicologists within its definition of physicians. The Board has held that a individual with a doctorate in toxicology is not a physician for the purposes of the Act.⁵ Accordingly, the Board finds that the opinions of Dr. Al-Bayati are of no probative medical value in establishing causal relationship in this case.

In a report dated March 2, 1999, Dr. Stephen McCurdy, a specialist in occupational medicine, provided a history and results on examination. He concluded that "it is possible that

² See *Walter D. Morehead*, 31 ECAB 188 (1979).

³ *Manuel Garcia*, 37 ECAB 767 (1986).

⁴ 5 U.S.C. § 8101(2).

⁵ *Kathy Marshall (Dennis Marshall)*, 45 ECAB 827, 834 (1994).

[appellant's] chronic JP-8 exposures caused his pulmonary fibrosis. Although animal data shows that exposures to jet fuel can cause lung injury, there are few human data showing that chronic exposures similar to [appellant's] lead to pulmonary fibrosis with the degree of volume loss seen in [appellant]." Dr. McCurdy therefore indicates only that a "possible" causal relationship exists.

Although a physician's opinion on causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, the opinion cannot be speculative or equivocal.⁶ The absence of a known etiology of a disease or condition does not relieve appellant of the burden of submitting affirmative medical opinion on causal relationship based on the relevant facts and with supporting medical rationale.⁷ The Board finds that Dr. McCurdy's opinion is speculative and does not constitute an affirmative medical opinion in support of causal relationship in this case.

Dr. McCurdy also concluded that appellant's complaints of memory loss and difficulty concentrating were due to solvent exposure on a more-probable-than-not basis. Dr. McCurdy noted that such complaints are recognized as being caused by solvent exposure and no other conditions provided a more likely explanation. However, he did not discuss in detail the nature and extent of appellant's complaints or refer to appellant's medical history. In a March 31, 1997 report, Dr. Allen Hobbs, a psychologist, stated that appellant believed some of his cognitive difficulties began in 1993 when his thyroid deficiency was diagnosed. Dr. McCurdy did not discuss the possible role of hypothyroidism in any memory loss or cognitive difficulties. Thus, his brief opinion on causal relationship is not sufficiently detailed to establish these cognitive symptoms as employment related.

⁶ *Roger Dingess*, 47 ECAB 123, 127 (1995).

⁷ *Ruby I. Fish*, 46 ECAB 276, 281 (1994).

The March 19, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
August 13, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member