

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SYLVIA B. HALL and DEPARTMENT OF JUSTICE,  
PAROLE COMMISSION, Chevy Chase, MD

*Docket No. 00-2258; Submitted on the Record;  
Issued June 11, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she developed a lung condition in the performance of duty.

On May 19, 1999 appellant, then a 49-year-old case analyst, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she developed acute bronchitis as a result of being exposed to fumes and dust when her office underwent a renovation. She stated that she first became aware of her lung condition on April 20, 1999.

In a letter dated January 21, 2000, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of her lung condition and specific employment factors.

In response to the Office's request, appellant submitted a note dated May 17, 1999 from Dr. Paul Armstrong, Board-certified in internal medicine; a narrative statement dated May 19, 1999 and a second undated narrative statement. Dr. Armstrong indicated that appellant's recent laryngitis, cough and throat irritation may have been related to exposure to airborne particles from adjacent building construction. Appellant indicated in her narrative statement dated May 19, 1999 that her symptoms began as a scratchy sore throat progressing to a cough and tightness in the chest. She noted that she was removed from the renovation area in March 1999; however, was still exposed to fumes and dust one hour per day. Appellant indicated in her undated narrative statement that she was exposed on a daily basis to fumes and dust from renovation activity at the employing establishment from the period October 1998 to May 1999. She indicated that she was not provided with protective equipment to prevent the exposure. Appellant indicated that in March 1999 her workstation was moved to another floor where she continued to be exposed to fumes and dust. She denied having previous pulmonary conditions and indicated she suffered from hay fever in the fall.

The employing establishment submitted a letter dated February 22, 2000 and appellant's position description. The employing establishment indicated that in March 1999 appellant

indicated that she was experiencing adverse affects from the construction. She was advised to take breaks. The employing establishment noted appellant's workstation was moved to another floor in March 1999. The employing establishment further noted that masks or respirators were not provided to employees.

On March 30, 2000 the Office issued a decision and denied appellant's claim for compensation under the Federal Employees' Compensation Act.<sup>1</sup> The Office found that the medical evidence was not sufficient to establish that her medical condition was caused by employment factors.

The Board finds that appellant has not met her burden of proof in establishing that he developed a lung condition in the performance of duty.

An employee seeking benefits under the Act 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 the 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 and every 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) 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. The medical evidence required to establish causal relationship is generally 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.<sup>4</sup>

In the instant case, it is not disputed that appellant was a case analyst and was working in an area, which was undergoing renovation. However, she has not submitted sufficient medical evidence to support that a condition has been diagnosed in connection with the employment

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Id.*

factor and that any alleged lung condition is causally related to the employment factors or conditions. On January 21, 2000 the Office advised appellant of the type of medical evidence needed to establish her claim. Appellant did not submit any medical report from an attending physician addressing how specific employment factors may have caused or aggravated her lung condition.

In a note dated May 17, 1999, Dr. Armstrong indicated that appellant's recent laryngitis, cough and throat irritation symptoms "may have been related to exposure to airborne particles from adjacent building construction." Although, his opinion somewhat supports causal relationship in a conclusory statement he provided no medical reasoning or rationale to support such statement. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.<sup>5</sup> Furthermore, Dr. Armstrong's opinion is speculative and conjectural. The Board has held that speculative and equivocal medical opinions on causal relationship have no probative value.<sup>6</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>7</sup> Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence, and the Office therefore properly denied appellant's claim for compensation.

The decision of the Office of Workers' Compensation Programs dated March 30, 2000 is affirmed.

Dated, Washington, DC  
June 11, 2001

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>5</sup> See *Theron J. Barham*, 34 ECAB 1070 (1983).

<sup>6</sup> See *Alberta S. Williamson*, 47 ECAB 569 (1996); *Frederick H. Coward, Jr.* 41 ECAB 843 (1990); *Paul E. Davis*, 30 ECAB 461 (1979).

<sup>7</sup> See *Victor J. Woodhams*, *supra* note 3.