

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of BUSIE L. SHELTON and DEPARTMENT OF DEFENSE,  
DECA NORTHWEST REGION, Columbus, OH

*Docket No. 00-1990; Submitted on the Record;  
Issued May 16, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has met his burden of proof in establishing that his pulmonary condition is causally related to factors of his federal employment.

In this case, appellant, then a 40-year-old material handler (forklift operator), filed a claim on July 17, 1998 alleging his reactive airway disease and allergies developed and were aggravated by his work exposure to dust, battery acid, motor oil, and other chemicals. By decision dated February 23, 1999, the Office of Workers' Compensation Programs denied appellant's claim finding that he had not established fact of injury. Appellant requested an oral hearing and by decision dated November 4, 1999, the hearing representative found that while the reports from appellant's attending physicians were not rationalized, they indicated that appellant's condition was causally related to the exposure by aggravation, and, thus, appellant's claim was remanded for further development of the medical evidence by the Office. The Office conducted further development and by decision dated April 26, 2000 denied appellant's claim finding that the medical evidence failed to establish that appellant's condition was due to factors of his federal employment.

To establish appellant's occupational disease claim that his reactive airways disease and allergies were sustained in the performance of duty appellant must submit the following: (1) medical evidence establishing that he has a medical condition; (2) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his medical condition; and (3) rationalized medical opinion evidence establishing that the identified employment factors are causally related to his medical condition.<sup>1</sup> 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

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<sup>1</sup> *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

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>2</sup>

Following the hearing representative's decision, the Office amended its statement of accepted facts and referred appellant to Dr. Beth Baker, a Board-certified pulmonologist, for a second opinion examination. In a January 19, 2000 report, Dr. Baker considered appellant's history of injury, past medical history, performed a physical examination, and noted that a methacholine challenge test of June 22, 1998 was positive for hyperreactive airway disease, with a drop in forced expiratory volume<sub>1</sub> of 22 percent from baseline at level five. Dr. Baker diagnosed asthma without obvious allergic component, vasomotor rhinitis, sinusitis by history, ex-cigarette abuse, and history of motor vehicle accident, 1989, resulting in C2 fracture and right scapular fracture, without residual effects. Dr. Baker opined that appellant had nonallergic asthma. She indicated that appellant does not give a history of an allergen which is aggravating his symptoms. He has a history of wheezing, cough, shortness of breath, chest tightness. These symptoms would fit with a diagnosis of asthma. Appellant has a positive methacholine challenge test which establishes that he has reactive airway disease, which is consistent with a diagnosis of asthma. He has clinically improved and has done well on asthma medicines, which is also consistent with a diagnosis of asthma. Dr. Baker opined that appellant's asthma was not caused by occupational exposures. She stated that appellant's asthma has the potential to be aggravated and exacerbated by dust and strong smells and temperature changes at his employment site, and recommended that his exposure to the potential aggravators be limited.

By letter dated February 15, 2000, the Office requested Dr. Baker to clarify her opinion. Specifically, the Office inquired as to whether the prior medical reports revealed an aggravation of the asthma from work conditions since the onset of the illness two years ago and, if there was an aggravation in the past two years, whether the aggravation had resolved at the time of Dr. Baker's physical examination on January 19, 2000.

In a report dated March 6, 2000, Dr. Baker stated that the appellant told her that his asthma was about the same at work as away from work. Appellant reported that his asthma is worse if he is under stress or if he exercises. To the extent that appellant has stress or exercises at work, Dr. Baker opined that she would expect that his asthma would be aggravated by work conditions. Dr. Baker further stated that when she examined appellant, he was not having an active asthma attack nor did he seem to be aggravating any of his asthma triggers.

In an addendum report dated March 15, 2000, Dr. Baker opined, on a more likely than not basis, that appellant's work condition did not aggravate his asthma. She based this opinion on the fact that appellant stated his asthma was not worse at work than it was away from the work site. Accordingly, Dr. Baker did not address the question of whether appellant's condition had been aggravated from work conditions since the onset of appellant's illness two years ago.

The Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Baker, a Board-certified pulmonologist and Office referral

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<sup>2</sup> *Id.*

physician, who advised that appellant's asthma and reactive airway conditions were not caused or materially aggravated by his employment.<sup>3</sup> Accordingly, appellant failed to meet his burden of proof to establish that his asthma and reactive airway conditions were causally related to factors of his employment.

The decision of the Office of Workers' Compensation Programs dated April 26, 2000 is affirmed.

Dated, Washington, DC  
May 16, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

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<sup>3</sup> See *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).